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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 291**

**FOOD**

**The Cocoa and Chocolate Products (Scotland) Regulations 2003**

<i>Made</i>	- - - -	<i>5th June 2003</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>6th June 2003</i>
<i>Coming into force</i>	- -	<i>3rd August 2003</i>

The Scottish Ministers, in exercise of the powers conferred by sections 6(4), 16(1)(e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990 <sup>M1</sup> and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A) <sup>M2</sup> of that Act to relevant advice given by the Food Standards Agency, and after consultation in accordance with section 48(4) and (4B) <sup>M3</sup> of that Act, hereby make the following Regulations:

**Marginal Citations**

- M1** 1990 c. 16; section 6(4) was amended by the [Deregulation and Contracting Out Act 1994 \(c. 40\)](#), [Schedule 9, paragraph 6](#) and by the [Food Standards Act 1999 \(c. 28\)](#) (“the 1999 Act”), [Schedule 5, paragraph 10\(3\)](#); [sections 16\(1\)](#) and [48\(1\)](#) were amended by the 1999 Act, [Schedule 5, paragraph 8](#); [section 17\(1\)](#) was amended by the 1999 Act, [Schedule 5, paragraphs 8 and 12](#); [section 26\(3\)](#) was amended by the 1999 Act, [Schedule 6](#); amendments made by [Schedule 5](#) to the 1999 Act shall be taken as pre-commencement enactments for the purposes of the [Scotland Act 1998 \(c. 46\)](#) by virtue of [section 40\(2\)](#) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of [section 53](#) of the [Scotland Act 1998](#).
- M2** [Section 48\(4A\)](#) was inserted by [paragraph 21](#) of [Schedule 5](#) to the [Food Standards Act 1999](#).
- M3** [Section 48\(4B\)](#) was inserted by [paragraph 21](#) of [Schedule 5](#) to the [Food Standards Act 1999](#).

**Citation, commencement and extent**

1. These Regulations may be cited as the Cocoa and Chocolate Products (Scotland) Regulations 2003 and shall come into force on 3rd August 2003.

(2) These Regulations shall extend to Scotland only.

**Interpretation**

2. In these Regulations—

“the Act” means the Food Safety Act 1990;

“catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

“designated product” means any cocoa or chocolate product specified in column 2 of Schedule 1, as read with any Note to that Schedule and any provision of regulation 3 and Schedule 2 relating to that product; and “designated cocoa product” and “designated chocolate product” mean any such product which is respectively a cocoa product or a chocolate product;

“Directive 2000/36/EC” means Council Directive 2000/36/EC relating to cocoa and chocolate products intended for human consumption<sup>M4</sup>;

“EEA Agreement” means the Agreement on the European Economic Area<sup>M5</sup> signed at Oporto on 2nd May 1992 as adjusted by the Protocol<sup>M6</sup> signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“other edible substances” does not include vegetable fats referred to in regulation 3 or the filling of any product specified in column 2 of item 7 or of item 10(a) of Schedule 1;

“preparation” includes manufacture and any form of processing or treatment, and “prepared” shall be construed accordingly;

“reserved description”, as respects any designated product, means any description specified in relation to that product in column 1 of Schedule 1;

[<sup>F1</sup>“Regulation (EU) No 1169/2011” means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004][<sup>F2</sup>, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods];

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

<sup>F3</sup> ...; and

“ultimate consumer” means any person who buys otherwise than—

- (a) for the purpose of resale;
- (b) for the purposes of a catering establishment; or
- (c) for the purposes of a manufacturing business.

**F1** Words in reg. 2(1) inserted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 9(a)(ii)**

**F2** Words in reg. 2 inserted (28.3.2019) by [The Food Standards and Hygiene \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/33\)](#), regs. 1(1), **4(2)**

**F3** Words in reg. 2(1) omitted (13.12.2014) by virtue of [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 9(a)(i)**

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#### Marginal Citations

**M4** O.J. No. L 197, 3.8.00, p.19, as adopted by EEA Joint Committee Decision 152/2001 (O.J. No. L 65, 7.3.02, p.26).

**M5** O.J. No. L 1, 3.1.94, p.1.

**M6** O.J. No. L 1, 3.1.94, p.571.

### Vegetable fats in chocolate products

**3.—(1)** Subject to paragraph (2) below, the vegetable fats, other than cocoa butter, specified in Schedule 2 may be added to those designated chocolate products specified in column 2 of items 3, 4, 5, 6, 8 and 9 of Schedule 1.

(2) An addition in accordance with paragraph (1) above may not exceed 5 per cent of the finished product, after deduction of the total weight of any other edible substances used in accordance with Note 1 to Schedule 1, without reducing the minimum content of cocoa butter or total dry cocoa solids.

### Scope of Regulations

**4.** These Regulations apply to designated products, which are intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment.

### Reserved descriptions

**5.** No person shall sell any food with a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless—

- (a) such food is the designated product to which the reserved description relates;
- (b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food;<sup>F4</sup> ...
- (c) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not and does not contain a designated product [<sup>F5</sup>; or ]
- [<sup>F6</sup>(d) the use of such description, derivative or word to designate the food is in accordance with the customs applicable in the United Kingdom and the food cannot be confused with a product listed in column 1 of Schedule 1.]

**F4** Word in reg. 5(b) omitted (13.12.2014) by virtue of [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), [sch. 5 para. 9\(b\)\(i\)](#)

**F5** Word in reg. 5(c) substituted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), [sch. 5 para. 9\(b\)\(ii\)](#)

**F6** Reg. 5(d) inserted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), [sch. 5 para. 9\(b\)\(iii\)](#)

### Labelling and description of designated products

**6.—(1)** Without prejudice to the generality of [<sup>F7</sup>Regulation (EU) No 1169/2011], no person shall sell any designated product unless it is marked or labelled with the following particulars:—

- (a) subject to paragraphs (2)(a) and (3), a reserved description of the product;
- (b) subject to regulation 7(2), in the case of a designated chocolate product which, pursuant to regulation 3, contains vegetable fats other than cocoa butter, the conspicuous and clearly legible statement “contains vegetable fats in addition to cocoa butter”;
- (c) where the words “milk chocolate” are used as the reserved description or a qualification of the reserved description of a designated chocolate product, an accompanying indication of the dry milk solids content in the form “milk solids: ... % minimum”: Provided that—

- (i) as regards a designated chocolate product specified in column 2 of item 4(a) of Schedule 1, the dry milk solids content indicated is not less than 14 per cent; and
  - (ii) as regards a designated chocolate product specified in column 2 of item 5 of Schedule 1, the dry milk solids content indicated is not less than 20 per cent;
  - (d) subject to paragraph (4) below, in the case of a designated product specified in column 2 of item 2(c), 2(d), 2(e), 3, 4, 5, 8 or 9 of Schedule 1, an indication of the total dry cocoa solids content in the form “cocoa solids... % minimum”;
  - (e) in the case of a designated cocoa product specified in column 2 of item 2(b) or 2(e), an indication of the cocoa butter content.
- (2) Where designated chocolate products specified in column 2 of items 3, 4, 5, 6, 7 and 10 of Schedule 1 are sold in an assortment–
- (a) the reserved description may be replaced by “assorted chocolates” or “assorted filled chocolates” or a similar name; and
  - (b) the list of ingredients with which food is required by [F8 Article 9(1)(b) of Regulation (EU) No 1169/2011] to be marked or labelled may be a single list of ingredients for all the products in the assortment.
- (3) The reserved descriptions “chocolate”, “milk chocolate” and “couverture chocolate” may be supplemented by information or descriptions relating to quality criteria:

Provided that the product contains–

- (a) in the case of the reserved description “chocolate”, not less than 43 per cent total dry cocoa solids, including not less than 26 per cent cocoa butter;
  - (b) in the case of the reserved description “milk chocolate”, not less than 30 per cent total dry cocoa solids and not less than 18 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi-skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat, including not less than 4.5 per cent milk fat;
  - (c) in the case of the reserved description “couverture chocolate”, not less than 16 per cent dry non-fat cocoa solids.
- (4) The total dry cocoa solids content with which a designated product is required by paragraph (1) (d) above to be marked or labelled shall be calculated after deduction of the weight of other edible substances provided for in Note 1 to Schedule 1 but not the weight of any ingredient specified in column 2 of Schedule 1 as an ingredient of that product or of any vegetable fat added in accordance with regulation 3.

<p><b>F7</b> Words in reg. 6(1) substituted (13.12.2014) by <a href="#">The Food Information (Scotland) Regulations 2014 (S.S.I. 2014/312)</a>, reg. 1(2), <b>sch. 5 para. 9(c)(i)</b></p> <p><b>F8</b> Words in reg. 6(2)(b) substituted (13.12.2014) by <a href="#">The Food Information (Scotland) Regulations 2014 (S.S.I. 2014/312)</a>, reg. 1(2), <b>sch. 5 para. 9(c)(ii)</b></p>
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**Manner of marking or labelling**

- 7.
- [F9(1) .....]
- (2) The information with which a designated chocolate product is required by regulation 6(1)(b) to be marked or labelled shall be–
- (a) in the same field of vision as the list of ingredients with which the product is required by [F10 Article 9(1)(b) of Regulation (EU) No 1169/2011] to be marked or labelled;

- (b) clearly separated from that list;
- (c) in bold lettering of at least the same size as that list; and
- (d) located near the reserved description, which may also appear elsewhere on the marking or labelling.

- F9** Reg. 7(1) omitted (13.12.2014) by virtue of [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 9(d)(i)**
- F10** Words in reg. 7(2)(a) substituted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 9(d)(ii)**

### Penalties and enforcement

**8.**—(1) Any person who contravenes or fails to comply with any of the provisions of regulation 5, 6 or 7 of these Regulations shall be guilty of an offence.

(2) A person found guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each food authority shall enforce and execute these Regulations in its area.

### Defence in relation to exports

**F11**9. ....

- F11** Reg. 9 revoked (1.1.2006) by [The Official Feed and Food Controls \(Scotland\) Regulations 2005 \(S.S.I. 2005/616\)](#), reg. 1(b), **sch. 6**

### Transitional provision

**F12**10. ....

- F12** Reg. 10 omitted (28.3.2019) by virtue of [The Food Standards and Hygiene \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/33\)](#), regs. 1(1), **4(3)**

### Application of various provisions of the Food Safety Act 1990

**11.** The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations:—

- (a) section 2 (extended meaning of sale etc.);
- (b) section 3 (presumptions that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15 of the Act;
- (e) section 22 (defence of publication in the course of business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 33 (obstruction of officers etc.);
- (h) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) or (2) as applied by sub-paragraph (g) above;

- (i) section 36 (offences by bodies corporate);
- (j) section 36A <sup>M7</sup> (offences by Scottish partnerships); and
- (k) section 44 (protection of officers acting in good faith).

#### Marginal Citations

**M7** [Section 36A](#) was inserted by paragraph 16 of Schedule 5 to the 1999 Act.

#### Amendments and revocations

**12.**—(1) The following entries relating to the Cocoa and Chocolate Products (Scotland) Regulations 1976 shall be omitted:—

- (a) in the Food and Drugs (Scotland) Act 1956 (Transfer of Enforcement Functions) Regulations 1983 <sup>M8</sup>, in Schedule 1;
- (b) in the Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985 <sup>M9</sup>, in Schedule 1, Part I;
- (c) in the Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990 <sup>M10</sup>, in Schedule 1, Part I, Schedule 2, Schedule 3, Part I and Schedules 6 and 12;
- (d) in the Food Safety (Exports) Regulations 1991 <sup>M11</sup>, in Schedule 2;
- (e) in the Food (Forces Exemptions) (Revocations) Regulations 1992 <sup>M12</sup>, in the Schedule, Part II;
- (f) in the Miscellaneous Food Additives Regulations 1995 <sup>M13</sup>, in regulation 10(5) and in Schedule 9;
- (g) in the Food (Miscellaneous Revocations and Amendment) Regulations 1995 <sup>M14</sup>, in regulation 3;
- (h) <sup>F13</sup>...; and
- (i) in the Miscellaneous Food Additives (Amendment) Regulations 1999 <sup>M15</sup>, in regulation 14(1).

(2) There shall be substituted for the following references to Directive [73/241/EEC](#) <sup>M16</sup>, references to Directive [2000/36/EC](#) <sup>M17</sup>:—

- (a) in the Colours in Food Regulations 1995 <sup>M18</sup>, in Schedule 2;
- (b) in the Miscellaneous Food Additives Regulations 1995 <sup>M19</sup>, in Schedule 3 and Schedule 7.

(3) The Cocoa and Chocolate Products (Scotland) Regulations 1976 and the Cocoa and Chocolate Products (Scotland) (Amendment) Regulations 1982 <sup>M20</sup> are hereby revoked.

**F13** Reg. 12(1)(h) revoked (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 4 Pt. 1**

#### Marginal Citations

**M8** [S.I. 1983/270](#), to which there are amendments not relevant to these Regulations.  
**M9** [S.I. 1985/1068](#), to which there are amendments not relevant to these Regulations.  
**M10** [S.I. 1990/2625](#), to which there are amendments not relevant to these Regulations.  
**M11** [S.I. 1991/1476](#), to which there are amendments not relevant to these Regulations.  
**M12** [S.I. 1992/2596](#), to which there are amendments not relevant to these Regulations.  
**M13** [S.I. 1995/3187](#), to which there are amendments not relevant to these Regulations.

- M14** [S.I. 1995/3267](#), to which there are amendments not relevant to these Regulations.
- M15** [S.I. 1999/1136](#).
- M16** O.J. L 228, 16.8.73, p.23, as last amended by Directive 89/344/EEC (O.J. L 142, 25.5.89, p.19).
- M17** O.J. L 197, 3.8.00, p.19.
- M18** [S.I. 1995/3124](#) to which there are amendments not relevant to these Regulations.
- M19** [S.I. 1995/3187](#); the relevant amending instrument is [S.I. 1999/1136](#).
- M20** [S.I. 1982/108](#).

St Andrew's House, Edinburgh

*TOM McCABE*  
Authorised to sign by the Scottish Ministers

## SCHEDULE 1

Regulations 2, 3 and 6

## COCOA AND CHOCOLATE PRODUCTS AND THEIR RESERVED DESCRIPTIONS

<b>Column 1</b> <b>Reserved Descriptions</b>	<b>Column 2</b> <b>Designated Products</b>
1. Cocoa butter	The fat obtained from cocoa beans or parts of cocoa beans with the following characteristics:– <ul style="list-style-type: none"> <li>– not more than 1.75 per cent free fatty acid content (expressed as oleic acid); and</li> <li>– for press cocoa butter, not more than 0.35 per cent unsaponifiable matter (determined using petroleum ether); or</li> <li>– for other cocoa butter, not more than 0.5 per cent unsaponifiable matter (determined using petroleum ether).</li> </ul>
2.	The product obtained by converting into powder cocoa beans which have been cleaned, shelled and roasted, and which contains not less than 20 per cent cocoa butter, calculated according to the weight of the dry matter, and not more than 9 per cent water.
(a) Cocoa powder or Cocoa	
(b) (b) Fat-reduced cocoa or Fat-reduced cocoa powder	Cocoa powder containing less than 20 per cent cocoa butter, calculated according to the weight of the dry matter.
(c) (c) Powered chocolate or Chocolate in powder	The product consisting of a mixture of cocoa powder and sugars, containing not less than 32 per cent cocoa powder.
(d) (d) Drinking chocolate or Sweetened cocoa or Sweetened cocoa powder	The product consisting of a mixture of cocoa powder and sugars, containing not less than 25 per cent cocoa powder.
(e) (e) Fat reduced drinking chocolate or Fat reduced sweetened cocoa or Fat reduced sweetened cocoa powder	The product consisting of a mixture of cocoa powder specified at item 2(b) and sugars, containing not less than 25 per cent of such cocoa powder.
3.	(a) (a) The product obtained from cocoa products and sugars which, subject to item 3(b), contains not less than 35per cent total dry cocoa solids, including not less than 18 per cent cocoa butter and not less than 14 per cent of dry non-fat solids.
(a) Chocolate	
(b) (b) If “Chocolate” is supplemented by–	(b) (b)
(i) “vermicelli” or “flakes”	(i) The product presented in the form of granules or flakes containing not less than 32 per cent total dry cocoa solids,



- including not less than 12 per cent cocoa butter and not less than 14 per cent of dry non-fat cocoa solids.
- (ii) “couverture”
- (ii) The product containing not less than 35 per cent total dry cocoa solids, including not less than 31 per cent cocoa butter and not less than 2.5 per cent of dry non-fat cocoa solids.
- (iii) “Gianduja” or one of the derivatives of “Gianduja”
- (iii) The nut chocolate product obtained (1) from chocolate having a minimum total dry cocoa solids content of 32 per cent including a minimum dry non-fat cocoa solids content of 8 per cent, and (2) from finely ground hazelnuts in such quantities that 100 grams of the product contain not less than 20 grams and not more than 40 grams of hazelnuts; and to which may have been added—
- milk or dry milk solids obtained by evaporation or both, in such proportion that the finished product does not contain more than 5 per cent dry milk solids;
  - almonds, hazelnuts and other nut varieties, either whole or broken, in such quantities that, together with the ground hazelnuts, they do not exceed 60 per cent of the total weight of the product.
- 4.
- (a) Milk chocolate
- (a) (a) The product obtained from cocoa products, sugars and milk or milk products which, subject to item 4(b), contains—
- not less than 25 per cent total dry cocoa solids;
  - not less than 14 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi skimmed or skimmed milk, cream or from partly or wholly dehydrated cream, butter or milk fat;
  - not less than 2.5 per cent dry non fat cocoa solids;
  - not less than 3.5 per cent milk fat;
  - not less than 25 per cent total fat (cocoa butter and milk fat).
- (b) (b) If “Milk chocolate” is supplemented by—
- (b) (b)

**Changes to legislation:** There are currently no known outstanding effects for the The Cocoa and Chocolate Products (Scotland) Regulations 2003. (See end of Document for details)

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| <p>(i) “vermicelli” or “flakes”</p>                             | <p>(i) The product presented in the form of granules or flakes containing not less than 20 per cent total dry cocoa solids, not less than 12 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi skimmed or skimmed milk, cream or from partly or wholly dehydrated cream, butter or milk fat and not less than 12 per cent total fat (cocoa butter and milk fat).</p>   |
| <p>(ii) “couverture”</p>  | <p>(ii) The product containing a minimum total fat (cocoa butter and milk fat) content of 31 per cent.</p>  |
| <p>(iii) “Gianduja” or one of the derivatives of “Gianduja”</p> | <p>(iii) The nut milk chocolate product obtained (1) from milk chocolate having a minimum content of 10 per cent dry milk solids, obtained by partly or wholly dehydrating whole milk, semi skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat and (2) from finely ground hazelnuts in such quantities that 100 grams of the produce contain not less than 15 grams and not more than 40 grams of hazelnuts; and to which may have been added almonds, hazelnuts and other nut varieties, either whole or broken, in such quantities that, together with the ground hazelnuts, they did not exceed 60 per cent of the total weight of the product.</p> |
| <p>(c) (c) If “Milk” is replaced by–</p>                        | <p>(c) (c)</p>  |
| <p>(i) “cream”</p>  | <p>(i) The product containing a minimum milk fat content of 5.5 per cent.</p>   |
| <p>(ii) “skimmed milk”</p>                                      | <p>(ii) The product containing a milk fat content not greater than 1 per cent.</p>  |
| <p><b>5. Family milk chocolate or Milk Chocolate</b></p>        | <p>The product obtained from cocoa products, sugars and milk or milk products which contains–</p> <ul style="list-style-type: none"> <li>– not less than 20 per cent total dry cocoa solids;</li> <li>– not less than 20 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat;</li> <li>– not less than 2.5 per cent dry non fat cocoa solids;</li> <li>– not less than 5 per cent milk fat;</li> </ul>   |

– not less than 25 per cent total fat (cocoa butter and milk fat).

6. White chocolate	The product obtained from cocoa butter, milk or milk products and sugars which contains not less than 20 per cent cocoa butter and not less than 14 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat, of which not less than 3.5 per cent is milk fat.
7. Filled chocolate or Chocolate with ..... filling or Chocolate with ..... centre	The filled product, the outer part of which consists of a product specified in column 2 of item 3, 4, 5 or 6 of this Schedule and constitutes not less than 25 per cent of the total weight of the product, but does not include any filled product, the inside of which consists of bakery products, pastry, biscuit or edible ice.
8. Chocolate a la taza	The product obtained from cocoa products, sugars, and flour or starch from wheat, rice or maize, which contains not less than 35 per cent total dry cocoa solids, including not less than 18 per cent cocoa butter and not less than 14 per cent dry non fat cocoa solids, and not more than 8 per cent flour starch.
9. Chocolate familiar a la taza	The product obtained from cocoa products, sugars, and flour or starch from wheat, rice or maize, which contains not less than 30 per cent total dry cocoa solids, including not less than 18 per cent cocoa butter and not less than 12 per cent dry non fat cocoa solids, and not more than 18 per cent flour or starch.
10. A chocolate or a praline	The product in single mouthful size, consisting of:– (a) the product specified in column 2 of item 7 of this Schedule; or (b) a single chocolate or a combination or a mixture of chocolate within the meaning of any of the definitions specified in column 2 of items 3, 4, 5 and 6 of this Schedule and any other edible substance, provided that the chocolate constitutes not less than 25 per cent of the total weight of the product.

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## Notes

1.—(1) Subject to regulation 3 and paragraph (2) of this Note, other edible substances may also be added to the designated chocolate products specified in column 2 of 3, 4, 5, 6, 8 and 9 of this Schedule:

Provided that this paragraph does not authorise the addition—

- (a) of animal fats and their preparations not deriving solely from milk;
- (b) of flours, granular and powdered starch other than in accordance with the definitions specified in column 2 of items 8 and 9 of this Schedule; or
- (c) of other edible substances in a quantity exceeding 40 per cent of the total weight of the finished product.

(2) Only those flavourings which do not mimic the taste of chocolate or of milk fat may be added to the designated products specified in column 2 of items 2, 3, 4, 5, 6, 8 and 9 of this Schedule.

2.—(1) The minimum contents of the designated chocolate products specified in column 2 of items 3, 4, 5, 6, 8 and 9 of this Schedule shall be calculated after deduction of the weight of other edible substances provided for in Note 1 to this Schedule.

(2) In the case of the designated chocolate products specified in column 2 of items 7 and 10 of this Schedule, the minimum contents shall be calculated after deducting the weight of other edible substances provided for in Note 1 to this Schedule, as well as the weight of the filling.

(3) The chocolate contents of the designated chocolate products specified in column 2 of items 7 and 10 of this Schedule shall be calculated in relation to the total weight of the finished product, including its filling.

3. In this Schedule, “sugars” includes sugars covered by Council Directive [2001/111/EC](#)<sup>M21</sup> and other sugars.

#### Marginal Citations

**M21** O.J. L 10, 12.1.02, p.53.

## SCHEDULE 2

Regulations 2 and 3

### AUTHORISED VEGETABLE FATS

1. Subject to the following paragraphs of this Schedule, the vegetable fats referred to in regulation 3 are, singly or in blends, cocoa butter equivalents and shall comply with the following criteria:—

- (a) they are non-lauric vegetable fats, which are rich in symmetrical monounsaturated triglycerides of the type POP, POST and StOST;
- (b) they are miscible in any proportion with cocoa butter, and are compatible with its physical properties (melting point and crystallisation temperatures, melting rate, need for tempering phase);
- (c) they are obtained only by the processes of refining or fractionation or both, which exclude enzymatic modification of the triglyceride structure.

2. In conformity with the criteria specified in paragraph 1 above, the following vegetable fats, obtained from the plants listed in the Table below, may be used:—

<i>Usual name of vegetable fat</i>	<i>Scientific name of the plants from which the fats listed can be obtained</i>
1. Illipe, Borneo tallow or Tengkawang	Shorea spp.

2. Palm-oil	Elaeis guineensis Elaeis olifera
3. Sal	Shorea robusta
4. Shea	Burtyrospermum parkii
5. Kokum gurgi	Garcinia indica
6. Mango kernel	Mangifera indica

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3. Coconut oil may be used in chocolate for the manufacture of ice cream and similar frozen products.

4. In this Schedule–

“P” means palmitic acid;

“O” means oleic acid;

“St” means stearic acid.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

<sup>M22</sup>These Regulations, which extend to Scotland, implement Directive [2000/36/EC](#) of the European Parliament and the Council relating to cocoa and chocolate products intended for human consumption . They revoke and replace the Cocoa and Chocolate Products (Scotland) Regulations 1976, as amended.

The Regulations–

- (a) prescribe definitions and reserved descriptions for designated cocoa and chocolate products (regulation 2 and Schedule 1);
- (b) specify the vegetable fats, other than cocoa butter, which may be added to particular chocolate products (regulation 3 and Schedule 2);
- (c) apply the Regulations to designated cocoa and chocolate products intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment (regulation 4);
- (d) restrict the use of reserved descriptions to the designated cocoa and chocolate products to which they relate (regulation 5);
- (e) require reserved descriptions and specified declarations to be applied to designated cocoa and chocolate products, prescribe the manner of marking or labelling and apply specified provisions of the Food Labelling Regulations 1996 (regulations 6 and 7);
- (f) <sup>M23</sup>specify a penalty, enforcement responsibilities and, in accordance with Articles 2 and 3 of Council Directive [89/397/EEC](#) on the official control of foodstuffs , a defence in relation to exports (regulations 8 and 9);
- (g) provide for a transitional period (regulation 10);
- (h) apply various provisions of the Food Safety Act 1990 (regulation 11); and
- (i) revoke the previous Regulations and make consequential amendments (regulation 12).

**Changes to legislation:** *There are currently no known outstanding effects for the The Cocoa and Chocolate Products (Scotland) Regulations 2003. (See end of Document for details)*

A Regulatory Impact Assessment, which includes a compliance cost assessment of the effect that these Regulations would have on business costs, has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen, AB11 6NJ.

**Changes to legislation:**

There are currently no known outstanding effects for the The Cocoa and Chocolate Products (Scotland) Regulations 2003.