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STATUTORY INSTRUMENTS

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1970 No. 1284 (S.103)

**FOOD AND DRUGS**

**COMPOSITION AND LABELLING — SCOTLAND**

**The Coffee and Coffee Product (Scotland) Regulations 1970**

<i>Made - - - -</i>	<i>26th August 1970</i>
<i>Laid before Parliament</i>	<i>8th September 1970</i>
<i>Coming into Operation</i>	<i>4th January 1971</i>

In exercise of the powers conferred upon me by sections 4, 7 and 56 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 (in so far as the regulations are made in exercise of the powers conferred by the said section 7), I hereby make the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Coffee and Coffee Product (Scotland) Regulations 1970, and shall come into operation on 4th January 1971.

*Interpretation*

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

“the Act” means the Food and Drugs (Scotland) Act 1956;

“caffeine” means anhydrous caffeine;

“chicory” means roasted chicory root;

“coffee” means coffee intended for sale for human consumption being the decorticated berries of coffee and including any such berries which have been roasted or ground or roasted and ground;

“coffee product” means any coffee product intended for sale for human consumption being any dried or liquid extract of coffee, any coffee and chicory mixture, any dried or liquid extract of a coffee and chicory mixture, any coffee and fig mixture, or any dried or liquid extract of a coffee and fig mixture, with or without, in any case, the addition of permitted additives;

“container” includes any form of packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

“fig” means dried fig;

“food” means food intended for sale for human consumption and includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include—

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(a) 1956 c. 30.

- (a) water, live animals or birds,
- (b) fodder or feeding stuffs for animals, birds or fish, or
- (c) articles or substances used only as drugs;

“permitted additive” means any emulsifier, stabiliser, preservative or solvent, as the case may be, inasmuch as its use in a coffee product is permitted by the appropriate regulations mentioned in the Schedule to these regulations;

“sell” includes offer or expose for sale or have in possession for sale, and “sale” and “sold” shall be construed accordingly; and other expressions have the same meaning as in the Act.

(2) The Interpretation Act 1889(a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(3) Except where the context otherwise requires, all percentages mentioned in these regulations are percentages calculated by weight.

(4) 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.

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

(6) Any reference in these regulations to any other regulations shall be construed as a reference to such regulations as amended by any subsequent regulations.

#### *Exemptions*

3. The following provisions of these regulations shall not apply in relation to any coffee, decaffeinated coffee or coffee product which is—

- (a) sold, consigned or delivered for exportation to any place outside the United Kingdom;
- (b) supplied under Government contracts for consumption by Her Majesty’s forces or supplied for consumption by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(b);
- (c) sold, consigned or delivered to a manufacturer for the purposes of his manufacturing business.

#### *Composition of coffee, decaffeinated coffee and coffee products*

4.—(1) Any food sold, consigned or delivered, which is described directly or by implication as coffee, shall be food which comes within the meaning of the expression “coffee” as defined in regulation 2(1) of these regulations:

Provided that any beverage may be described as coffee if coffee, coffee extract or coffee essence is the ingredient which characterises such beverage.

(2) Any coffee sold, consigned or delivered, which is described directly or by implication as decaffeinated, shall contain not more than 0·1 per cent. of caffeine.

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(a) 1889 c. 63.

(b) 1952 c. 67.

(3) Any coffee product sold, consigned or delivered shall comply with the compositional requirements specified in the appropriate following sub-paragraph of this paragraph in relation to that coffee product:—

- (a) A dried extract of coffee shall contain—
- (i) as not less than 95 per cent. thereof, the dried water-soluble solids of coffee, and
  - (ii) not more than 100 parts per million of matter not derived from coffee.
- (b) A liquid extract of coffee shall contain—
- (i) no extract from any vegetable matter other than coffee, and
  - (ii) as not less than 0.5 per cent. weight in volume thereof, caffeine derived from coffee:
- Provided that it shall be sufficient compliance with the requirements of this sub-paragraph (ii) if every gallon of such liquid extract is prepared from not less than 4 pounds of roasted coffee, or from a proportionate amount of roasted coffee for any quantity of less than 1 gallon.
- (c) A mixture of coffee and chicory (including French coffee) shall contain—
- (i) as not less than 51 per cent. thereof, coffee, and
  - (ii) no matter other than coffee and chicory.
- (d) A dried extract of coffee and chicory shall contain—
- (i) as not less than 95 per cent. thereof, a homogeneous mixture of the dried water-soluble solids of coffee and chicory, and
  - (ii) not more than 100 parts per million of matter other than coffee and chicory.
- (e) A liquid extract of coffee and chicory shall contain—
- (i) no extract from any vegetable matter other than coffee and chicory, and
  - (ii) as not less than 0.25 per cent. weight in volume thereof, caffeine derived from coffee:
- Provided that it shall be sufficient compliance with the requirements of this sub-paragraph (ii) if every gallon of such liquid extract is prepared from not less than 2 pounds of roasted coffee, or from a proportionate amount of roasted coffee for any quantity of less than 1 gallon.
- (f) Any coffee with fig flavouring or fig seasoning (including Viennese coffee) shall contain—
- (i) as not less than 85 per cent. thereof, coffee, and
  - (ii) no matter other than coffee and fig.
- (g) A dried extract of coffee and fig shall contain—
- (i) as not less than 95 per cent. thereof, a homogeneous mixture of the dried water-soluble solids of coffee and fig, and
  - (ii) not more than 100 parts per million of matter other than coffee and fig.
- (h) A liquid extract of coffee and fig shall contain—
- (i) no extract from any vegetable matter other than coffee and fig, and
  - (ii) as not less than 0.4 per cent. weight in volume thereof, caffeine derived from coffee:

Provided that it shall be sufficient compliance with the requirements of this sub-paragraph (ii) if every gallon of such liquid extract is prepared from not less than  $3\frac{1}{2}$  pounds of roasted coffee, or from a proportionate amount of roasted coffee for any quantity of less than 1 gallon.

- (j) A coffee extract, coffee essence or coffee mixture described directly or by implication as decaffeinated shall not contain caffeine exceeding 0.3 per cent. of the coffee solids contained in such extract, essence or mixture.

(4) No person shall sell, consign or deliver, as the case may be, any coffee, decaffeinated coffee or coffee product which does not comply with this regulation.

*Designation of decaffeinated coffee and of coffee products*

5. No person shall sell, consign or deliver any decaffeinated coffee or any coffee product otherwise than under a designation specified in the appropriate following paragraph in relation to that decaffeinated coffee or coffee product:—

- (a) In relation to any decaffeinated coffee, the designation “decaffeinated coffee” shall be used.
- (b) In relation to any dried extract of coffee, one of the following designations shall be used, namely “dried extract of coffee”, “dried coffee extract” or “instant coffee”.
- (c) In relation to any liquid extract of coffee, one of the following designations shall be used, namely “extract of coffee”, “coffee extract”, “essence of coffee” or “coffee essence”.
- (d) In relation to any coffee and chicory mixture, including any such mixture described as “French coffee”, one of the following designations shall be used, namely “coffee and chicory mixture”, “mixture of coffee and chicory”, “French coffee—coffee and chicory mixture”, “coffee and chicory mixture—French coffee”, “French coffee—mixture of coffee and chicory” or “mixture of coffee and chicory—French coffee”.
- (e) In relation to any dried extract of coffee and chicory, one of the following designations shall be used, namely “dried extract of coffee and chicory”, “dried coffee and chicory extract” or “instant coffee and chicory”.
- (f) In relation to any liquid extract of coffee and chicory, one of the following designations shall be used, namely “extract of coffee and chicory”, “coffee and chicory extract”, “essence of coffee and chicory” or “coffee and chicory essence”.
- (g) In relation to any coffee with fig flavouring or fig seasoning, including any such coffee described as “Viennese coffee”, one of the following designations shall be used, namely “coffee with fig flavouring”, “coffee with fig seasoning”, “Viennese coffee—coffee with fig flavouring”, “coffee with fig flavouring—Viennese coffee”, “Viennese coffee—coffee with fig seasoning” or “coffee with fig seasoning—Viennese coffee”.
- (h) In relation to any dried extract of coffee and fig, one of the following designations shall be used, namely “dried extract of coffee and fig”, “dried coffee and fig extract” or “instant coffee and fig”.

- (j) In relation to any liquid extract of coffee and fig, one of the following designations shall be used, namely "extract of coffee and fig", "coffee and fig extract", "essence of coffee and fig" or "coffee and fig essence".
- (k) In relation to any decaffeinated coffee product, the designation, specified in the appropriate preceding paragraph in relation to that coffee product, shall include the word "decaffeinated" placed immediately before the word "coffee" in such designation, except that in the case of any decaffeinated coffee product in the designation of which the words "French coffee" or the words "Viennese coffee" are used, the word "decaffeinated" shall be placed immediately before the word "French" or the word "Viennese", as the case may be, in such designation.

*General requirements as to composition and description*

6.—(1) No person shall sell any food under such a description as to lead an intending purchaser to believe that he is purchasing any coffee, any decaffeinated coffee or any coffee product for which compositional requirements are specified in these regulations unless such food complies with the appropriate compositional requirements specified in regulation 4 of these regulations in relation to that coffee, decaffeinated coffee or coffee product.

(2) Where a person sells any food to a purchaser in response to a request for any kind of coffee, decaffeinated coffee or coffee product for which compositional requirements are specified in these regulations, he shall be deemed to sell coffee or a coffee product of that kind and conforming to the compositional requirements for coffee or a coffee product of that kind which are specified in regulation 4 of these regulations, unless he clearly notifies the purchaser at the time of sale that the food is not coffee, decaffeinated coffee or a coffee product of that kind.

7. Nothing in these regulations shall prohibit the use of the words "dandelion coffee"—

- (a) to describe a product which consists wholly of roasted dandelion root, or
- (b) as part of the description applied to an extract or essence derived mainly from roasted dandelion root, or
- (c) to describe any beverage in which roasted dandelion root is the ingredient which characterises such beverage.

*General requirements as to labelling and advertisement of coffee, decaffeinated coffee and coffee products*

8. No person shall—

- (a) give with any food sold by him any label, whether attached to or borne on the container or not, or display with any food offered or exposed by him for sale any ticket or notice, or
- (b) publish, or be a party to the publication of, any advertisement for food, being a label, ticket, notice or advertisement, as the case may be, which bears or includes the description "coffee" or any designation specified in regulation 5 of these regulations unless—
- (i) such food complies with the appropriate compositional requirements specified in relation to food of that kind in regulation 4 of these regulations, or

- (ii) the description or designation, as the case may be, is used in such a context as to indicate clearly that the coffee, decaffeinated coffee or coffee product, as the case may be, to which the description or designation relates is an ingredient, with one or more other ingredients, of such food and unless such coffee, decaffeinated coffee or coffee product complies with the compositional requirements specified in relation thereto in regulation 4 of these regulations, or
- (iii) the description or designation, as the case may be, is used in such a context as to indicate explicitly or by clear implication that such food is not of a kind in relation to which that description or designation is specified by these regulations and does not include any food of that kind.

*Restriction of use of the words "French coffee" and "Viennese coffee"*

**9.—(1)** No person shall publish, or be a party to the publication of, any advertisement which includes the words "French coffee" unless—

- (a) when it appears in visual form, the words "coffee and chicory mixture" or "mixture of coffee and chicory" appear clearly and prominently in letters substantially as conspicuous as the letters of the words "French coffee", at least once, immediately before or immediately after the words "French coffee";
- (b) when it is presented in oral form, the words "coffee and chicory mixture" or "mixture of coffee and chicory" are spoken audibly and clearly, at least once, immediately before or immediately after the words "French coffee".

**(2)** No person shall publish, or be a party to the publication of, any advertisement which includes the words "Viennese coffee" unless—

- (a) when it appears in visual form, the words "coffee with fig flavouring" or "coffee with fig seasoning" appear clearly and prominently in letters substantially as conspicuous as the letters of the words "Viennese coffee", at least once, immediately before or immediately after the words "Viennese coffee";
- (b) when it is presented in oral form, the words "coffee with fig flavouring" or "coffee with fig seasoning" are spoken audibly and clearly, at least once, immediately before or immediately after the words "Viennese coffee".

*Enforcement*

**10.—(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<sup>(a)</sup>, 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<sup>(b)</sup>;

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<sup>(a)</sup> 1897 c. 38.

<sup>(b)</sup> 1947 c. 43.

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.

#### *Penalties*

**11.**—(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 6 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.

#### *Defences*

**12.**—(1) In any proceedings for an offence against these regulations in relation to the publication of an advertisement, 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.

(2) In any proceedings against the manufacturer or importer of any coffee product for an offence against these regulations in relation to the publication of an advertisement, it shall rest on the accused to prove that he did not publish, and was not a party to the publication of, the advertisement.

#### *Application of various sections of the Act*

**13.**—(1) Sections 41(2) and (5) (which relates to proceedings), 42(1), (2) and (3) (which relates 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*

**14.**—(1) The Food Standards (Liquid Coffee Essences) Order 1945(a), the Food Standards (Coffee Mixtures) Order 1952(b), and article 7(3) of the Labelling of Food Order 1953(c), as amended (d), are hereby revoked.

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

*Gordon Campbell,*  
One of Her Majesty's  
Principal Secretaries of State.

St. Andrew's House,  
Edinburgh.  
26th August 1970.

SCHEDULE

Regulation 2(1)

Regulations	References
The Emulsifiers and Stabilisers in Food (Scotland) Regulations 1962.	S.I. 1962/779 (1962 I, p. 766).
The Preservatives in Food (Scotland) Regulations 1962.	S.I. 1962/1926 (1962 II, p. 2371).
The Solvents in Food (Scotland) Regulations 1968	S.I. 1968/263 (1968 I, p. 789).

EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations, which apply to Scotland only, supersede the Food Standards (Liquid Coffee Essences) Order 1945, the Food Standards (Coffee Mixtures) Order 1952 and Article 7(3) of the Labelling of Food Order 1953.

The Regulations—

- (a) specify compositional requirements for coffee, decaffeinated coffee and coffee products (Regulation 4);
- (b) prescribe appropriate designations for decaffeinated coffee and coffee products (Regulation 5);

(a) S.R. & O. 1945/389 (1945 II, p. 465).

(b) S.I. 1952/1697 (1952 I, p. 958).

(c) S.I. 1953/536 (1953 I, p. 665).

(d) The amending order and regulations are not relevant to the subject matter of this regulation.



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- (c) specify general requirements as to the composition and description (Regulation 6) and as to the labelling and advertisement (Regulation 8) of coffee, decaffeinated coffee and coffee products; and
  - (d) place restrictions on the use of the words "French coffee" and "Viennese coffee" (Regulation 9).

The Regulations do not apply to coffee, decaffeinated coffee or coffee products sold for export or supplied for consumption by Her Majesty's forces or a visiting force or sold to a manufacturer for the purposes of his manufacturing business (Regulation 3), or to dandelion coffee (Regulation 7).

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