

## 1970 No. 1286 (S. 105)

## FOOD AND DRUGS

## COMPOSITION AND LABELLING—SCOTLAND

## The Margarine (Scotland) Regulations 1970

Made - - - 26th August 1970

Laid before Parliament 9th September 1970

Coming into Operation 4th January 1971

In exercise of the powers conferred upon me by sections 4, 7 and 56 of the Food and Drugs (Scotland) Act 1956<sup>(a)</sup>, 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 Margarine (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;

“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;

“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—

- (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;

“margarine” means the food usually known as margarine, being a plasticised emulsion of edible oils and fats with water or skimmed milk, with or without the addition of vitamins A and D, sodium chloride, sugars and other minor ingredients and permitted additives;

“permitted additive” means any colouring matter, antioxidant, emulsifier, stabiliser, preservative or solvent, as the case may be, inasmuch as its use in margarine is permitted by the appropriate regulations mentioned in Schedule 1 to these regulations;

(a) 1956 c. 30.

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

“sell by retail” means sell to a person buying otherwise than for the purpose of re-sale, and “sold by retail” shall be construed accordingly;

“vitamin A” means vitamin A present as such or as its esters and includes beta-carotene on the basis that 0.75 micrograms of beta-carotene shall be regarded as equivalent to 1.0 international unit of vitamin A;

“vitamin D” means the anti-rachitic vitamins;

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) 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 margarine—

- (a) sold, consigned or delivered for exportation to any place outside the United Kingdom; or
- (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); or
- (c) sold, consigned or delivered to a manufacturer for the purposes of his manufacturing business or to a caterer for the purposes of his catering business.

#### *Continuation of Part IVA of the Labelling of Food Order 1953*

4. Until Part IVA of the Labelling of Food Order 1953(c) as amended(d), is revoked in accordance with regulation 15(2) of these regulations, regulations 8 and 10 of these regulations, in so far as they relate to a label, ticket or notice, shall not apply in relation to any label, ticket or notice which conforms to the requirements of the provisions of the said Part IVA.

#### *Composition of margarine*

5.—(1) Any margarine sold, consigned or delivered—

- (a) shall contain not less than 80 per cent. of fat of which not more than one tenth calculated by weight may be fat derived from milk, and
- (b) shall not contain more than 16 per cent. of water.

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(a) 1889 c. 63.                      (b) 1952 c. 67.                      (c) S.I. 1953/536 (1953 I, p. 665).  
 (d) The relevant amending instrument is S.I. 1956/1146 (1956 I, p. 1007).

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

*Vitamin content of margarine*

**6.**—(1) Any margarine sold by retail shall contain in every ounce of such margarine—

- (a) not less than 760 international units and not more than 940 international units of vitamin A, and
- (b) not less than 80 international units and not more than 100 international units of vitamin D,

and a proportionate amount in any part of an ounce.

(2) No person shall sell by retail any margarine which does not comply with this regulation.

*General requirements as to composition and description*

**7.**—(1) No person shall sell any food under such a description as to lead an intending purchaser to believe that he is purchasing any margarine for which compositional requirements are specified in these regulations unless the food complies with the appropriate compositional requirements so specified in relation to that margarine.

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

*Labelling and advertisement of margarine*

**8.** No person shall give with any margarine sold by him any label, whether attached to or borne on the container or not, or display with any margarine offered or exposed by him for sale any ticket or notice, being a label, ticket or notice, as the case may be, which—

- (a) bears or includes any description of margarine, any brand or descriptive name or any pictorial device which, in any such case, refers to, or is suggestive of, butter or of anything connected with the dairy interest;
- (b) claims that such margarine contains or is made with cream or milk unless—
  - (i) such claim is made in the following words (and no others), that is to say:—

“made with (X), milk-fat equivalent to (Y)% of butter” inserting at (X) the word “cream” or the word “milk”, as the case may be, and at (Y) the figure which represents the minimum percentage of butter calculated on the amount of milk-fat introduced by the cream, or the milk, as the case may be, and
  - (ii) such claim is made in letters or figures all of which, other than initial letters, are of equal size;
- (c) claims that such margarine contains butter unless—
  - (i) such claim states the minimum percentage of butter which the margarine contains, and
  - (ii) the letters of the word “butter” contained in any such claim are not taller than the letters of the word or the figures, as the case may be, which indicate such minimum percentage of butter;

- (d) bears or includes any brand or descriptive name unless the word "margarine" appears in immediate proximity to such brand or descriptive name, at least once, in accordance with the requirements set out in Schedule 2 to these regulations;
- (e) bears or includes the word "butter", "cream" or "milk", or any word suggestive of butter, cream or milk, or any brand or descriptive name derived from the words "butter", "cream" or "milk" in letters taller than those used for the word "margarine":

Provided that the provisions of sub-paragraphs (a) to (c) of this regulation shall not apply as respects any list of ingredients of the margarine appearing on a label attached to or borne on the container thereof in accordance with the provisions of regulation 5 of the Labelling of Food (Scotland) Regulations 1970(a).

9.—(1) No person shall publish, or be a party to the publication of, any advertisement for margarine unless—

- (a) when it is presented visually, the word "margarine" appears clearly and prominently at least once;
- (b) when it is presented orally, the word "margarine" is spoken audibly and clearly at least once.

(2) No person shall publish, or be a party to the publication of, any advertisement for margarine which includes any brand or descriptive name unless—

- (a) when it is presented visually, the word "margarine" appears in accordance with the requirements set out in paragraph 2 of Schedule 2 to these regulations, at least once, immediately before or immediately after such brand or descriptive name;
- (b) when it is presented orally, the word "margarine" is spoken audibly and clearly, at least once, immediately before or immediately after such brand or descriptive name.

(3) No person shall publish, or be a party to the publication of, any advertisement for margarine which—

- (a) includes any description of margarine, any brand or descriptive name or any pictorial device which, in any such case, refers to, or is suggestive of, butter or of anything connected with the dairy interest;
- (b) claims that the margarine contains, or is made with, cream or milk unless—
  - (i) such claim is made in the following words (and no others), that is to say:—

"made with (X), milk-fat equivalent to (Y)% of butter" inserting at (X) the word "cream" or the word "milk", as the case may be, and at (Y) the figure which represents the minimum percentage of butter calculated on the amount of milk-fat introduced by the cream, or the milk, as the case may be, and
  - (ii) such claim, if presented visually, is made in letters or figures all of which, other than initial letters, are of equal size;
- (c) claims that the margarine contains butter unless—
  - (i) such claim states the minimum percentage of butter which the margarine contains, and
  - (ii) the letters of the word "butter" contained in any such claim, if presented visually, are not taller than the letters of the word or the

figures, as the case may be, which indicate such minimum percentage of butter;

- (d) includes the word “butter”, “cream” or “milk”, or any word suggestive of butter, cream or milk, or any brand or descriptive name derived from the words “butter”, “cream” or “milk” in letters taller than those used for the word “margarine”.

**10.** 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 any food,

being a label, ticket, notice or advertisement, as the case may be, which bears or includes the word “margarine” unless—

- (i) such food complies with the appropriate compositional requirements specified in regulations 5 and 6 of these regulations, or
- (ii) the word is used in such a context as to indicate clearly that the margarine to which it relates is an ingredient, with one or more other ingredients, of such food and such margarine complies with the compositional requirements specified in regulation 5 of these regulations, or
- (iii) the word is used in such a context as to indicate explicitly or by clear implication that such food is not margarine and does not include any margarine.

*Enforcement*

**11.—(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>; 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*

**12.—(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.

#### *Defences*

13.—(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 margarine or of any food containing margarine 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*

14.—(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 the 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 (Margarine) Order 1954(a) and the Food Standards (Butter and Margarine) (Scotland) Regulations 1956(b) are hereby revoked.

(2) The definitions of margarine and margarine cheese in article 2(1), and the whole of Part IVA, of the Labelling of Food Order 1953, as amended, and the Labelling of Food (Amendment) (Scotland) Regulations 1956(c) shall be revoked on 5th July 1971.

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(a) S.I. 1954/613 (1954 I, p. 804). (b) S.I. 1956/1145 (1956 I, p. 1001).  
(c) S.I. 1956/1146 (1956 I, p. 1007).

(3) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the orders and regulations 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 1

##### Regulation 2(1)

Regulations	References
The Colouring Matter in Food (Scotland) Regulations 1966 ... ..	S.I. 1966/1384 (1966 III, p. 3715).
The Antioxidant in Food (Scotland) Regulations 1967 ... ..	S.I. 1967/105 (1967 I, p. 205).
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).

#### SCHEDULE 2

##### Regulations 8(d) and 9(2)(a)

##### *Requirements as to marking on labels on containers, on tickets and notices and in advertisements*

1.—(1) Where the word "margarine" appears on any label on a container, or on any ticket or notice, as the case may be, pursuant to regulation 8(d) of these regulations every letter of such word shall—

- (a) be clearly legible;
- (b) appear in a prominent position on the label, ticket or notice;
- (c) appear in a dark colour upon a light-coloured ground or in a light colour upon a dark-coloured ground;
- (d) be of uniform colour and size, save that the initial letter of such word may be taller than any other letter therein;
- (e) be of such size that the height of the shortest letter shall be not less than one half the height of the tallest letter, other than an initial letter, in any word of more than one letter appearing on any label on that container, or on that ticket or notice, as the case may be.

(2) For the purposes of this paragraph the height of any lower case letter shall be taken to be the x-height thereof, disregarding any ascender and descender thereof.

2. Where the word "margarine" is included in any advertisement pursuant to regulation 9(2)(a) of these regulations—

- (a) such word shall appear substantially as prominently as the brand or descriptive name to which it is in immediate proximity, and
- (b) every letter in such word shall be of uniform size and colour on a ground of contrasting colour:

Provided that the initial letter of such word may be taller than any other letter therein.

## EXPLANATORY NOTE

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

These Regulations, which apply to Scotland only, supersede the Food Standards (Margarine) Order 1954, the Food Standards (Butter and Margarine) (Scotland) Regulations 1956 (in so far as they relate to margarine) and Part IVA of, and supporting definitions in, the Labelling of Food Order 1953, as amended.

These Regulations come into operation on 4th January 1971. The revocation of Part IVA of, and the supporting definitions in, the Order of 1953 as amended is, however, postponed until 5th July 1971 and until that date Regulations 8 and 10 of these Regulations, in so far as they relate to any label, ticket or notice, will not apply to any label, ticket or notice which conforms to the requirements of the said Part IVA (Regulations 4 and 15(2)).

The Regulations—

- (a) specify requirements as to the fat, water, and vitamin content of margarine (Regulations 5 and 6);
- (b) specify requirements as to the wording of labels and on tickets and notices displayed with margarine and in advertisements for margarine (Regulations 8 and 9 and paragraph 1 of Schedule 2);
- (c) restrict the use of the words “butter”, “cream” and “milk” on labels, tickets, notices and advertisements relating to the sale of margarine (Regulations 8 and 9);
- (d) specify requirements as to the use of the word “margarine” in advertisements for margarine (Regulation 9 and paragraph 2 of Schedule 2).

The Regulations do not apply to margarine 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 or to a caterer for the purposes of his catering business (Regulation 3).

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