
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Scotland only, implement Council Directive No.85/573/EEC (O.J. No. L372, 31.12.85, p.22) which amended for the second time Directive 77/436/EEC (O.J. No. L172, 12.7.77, p.20) on the approximation of the laws of the Member States relating to coffee extracts and chicory extracts for human consumption. They also make consequential and other provision for products to which the Directives do not apply. For these purposes, they further amend the Coffee and Coffee Products (Scotland) Regulations 1979 (“the principal Regulations”) by substituting, for original regulations 5 and 6, new regulations 5, 5A and 6 to make separate provision for retail and non-retail sales of coffee and coffee products (regulation 2(b)) and by re-defining specified designated products in Schedule 1 (regulation 2(d)). They also amend the Food Labelling (Scotland) Regulations 1984 so as to apply Part III to coffee and coffee products other than those ready for delivery to a catering establishment (regulation 3).

The new definitions in the replaced Schedule 1 remove the requirement as to the minimum raw coffee content of coffee extracts and reduce the requirement as to the minimum dry matter content of coffee extract and chicory extracts. The definition of chicory and coffee essence has also been amended to remove (in the case of non-retail sales) the requirement to declare added sugar products and the reserved description has been amended in consequence.

In relation to retail sales, the requirements in new principal regulation 5 for labelling products with specified particulars make the following changes of substance:—

- (a) coffee and chicory extracts are required to be labelled respectively with the minimum coffee-based and chicory-based dry matter content;
- (b) the word “concentrated” is permitted to be added to the description of specified liquid coffee and chicory extracts.

In relation to non-retail sales, new principal regulation 5A requires products to be labelled with a reserved description and particulars of the Community manufacturer, packer or seller, a marking by which the batch can be identified and, in the case of specified coffee products containing permitted anti-caking agent, a declaration that they are for use in vending machines, where this is the intention.

The manner of marking or labelling of all designated products is prescribed by new principal regulation 6 for retail and non-retail sales.

The substantive changes made by regulations 2 and 3 come into force on 28th December 1988. Until then regulation 4 (which with regulation 1 comes into force on 28th December 1987) provides that an accused shall not be convicted of an offence—

- (a) against regulations 5 or 6, unless it is proved that his act would have constituted an offence against the respective substituted provisions had they then been in force;
- (b) against Part III of the Food Labelling (Scotland) Regulations 1984 for failing to mark or label with a list of ingredients coffee or coffee products which are ready for delivery to a catering establishment.