

## 1990 No. 440

## FOOD

## Labelling

**Food Labelling (Amendment) Regulations  
(Northern Ireland) 1990**

*Made* . . . . . 14th December 1990

*Coming into operation* . . . . . 1st January 1991

The Department of Health and Social Services for Northern Ireland, being a designated Department(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the presentation and packaging of food intended for sale for human consumption, in exercise of the powers conferred on it by the said section 2(2) and in exercise of the powers conferred on it by Articles 9 and 72 of the Food (Northern Ireland) Order 1989(c) and of all other powers enabling it in that behalf and after consultation in accordance with Article 72(2) of the said Order with such organisations as appear to it to be representative of interests substantially affected by these Regulations, hereby makes the following Regulations:

*Citation, commencement and interpretation*

1.—(1) These Regulations may be cited as the Food Labelling (Amendment) Regulations (Northern Ireland) 1990 and shall come into operation on 1st January 1991.

(2) In these Regulations “the principal Regulations” means the Food Labelling Regulations (Northern Ireland) 1984(d).

*Amendment of the principal Regulations*

2.—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (13).

(2) For regulation 6(c) there shall be substituted the following paragraph—

“(c) the appropriate durability indication, that is to say—

- (i) in the case of a food other than one specified in sub-paragraph (ii), an indication of minimum durability;
- (ii) in the case of a food which, from the microbiological point of view, is highly perishable and in consequence likely after a

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(a) S.I. 1981/833

(b) 1972 c. 68

(c) S.I. 1989/846 (N.I. 6)

(d) S.R. 1984 No. 407; the relevant amending Regulations are S.R. 1989 No. 229

short period to constitute an immediate danger to human health, a "use by" date;".

(3) To the heading "Indication of minimum durability" preceding the heading to regulation 21 there shall be added "or "use by" date".

(4) In regulation 21(2)—

(a) at the end of sub-paragraph (a) the word "and" shall be omitted;

(b) in sub-paragraph (b) after "three months" there shall be inserted "but not more than eighteen months" and at the end there shall be inserted the word "and";

(c) after sub-paragraph (b) there shall be added the following sub-paragraph—

"(c) in the case of a food which can reasonably be expected to retain its specific properties for more than eighteen months it may be expressed either in terms of a month and year only or in terms of a year only, if (in either case) the words "best before" are replaced by the words "best before end"."

(5) Regulation 21(4) and (5) shall be omitted.

(6) After regulation 21 there shall be inserted the following regulation—

*"Form of indication of "use by" date*

21A.—(1) Where a "use by" date is required in respect of a food it shall be indicated by—

(a) the words "use by" followed by the date up to and including which the food, if properly stored, is recommended for use, and

(b) any storage conditions which need to be observed.

(2) The "use by" date shall be expressed in terms either of a day and a month (in that order) or of a day, a month and a year (in that order).

(3) The date up to and including which a food required to bear a "use by" date is recommended for use may appear separately from the words "use by", provided that those words are followed by a reference to the place where the date appears."

(7) For regulation 22 there shall be substituted the following regulation—

*"Foods which need not bear an indication of minimum durability or a "use by" date*

22. The following foods need not be marked or labelled with an indication of minimum durability or a "use by" date—

(a) fresh fruit and vegetables (including potatoes but not including sprouting seeds, legume sprouts and similar products) which have not been peeled or cut into pieces;

(b) wine, liqueur wine, sparkling wine, aromatized wine and any similar drink obtained from fruit other than grapes and any drink made from grapes or grape musts and coming within codes 2206 00 91, 2206 00 93 and 2206 00 99 of the combined nomenclature;

(c) any drink with an alcoholic strength by volume of 10 per cent. or more;

- (d) any soft drink, fruit juice or fruit nectar or alcoholic drink, sold in a container containing more than 5 litres and intended for supply to catering establishments;
  - (e) flour confectionery and bread which are normally consumed within twenty-four hours of their preparation;
  - (f) vinegar;
  - (g) cooking and table salt;
  - (h) solid sugar and products consisting almost solely of flavoured or coloured sugars;
  - (i) chewing gums and similar products;
  - (j) edible ices in individual portions;
  - (k) until 20th June 1992—
    - (i) deep-frozen food,
    - (ii) cheese which is intended to ripen completely or partially in its packaging,
    - (iii) any food which, if properly stored, can be expected to retain its specific properties for more than eighteen months.”.
- (8) For regulation 27 there shall be substituted the following regulation—

*“Small packages and certain indelibly marked bottles*

27.—(1) Subject to paragraphs (2) and (3), any prepacked food, either contained in an indelibly marked glass bottle intended for re-use and having no label, ring or collar, or the largest surface of whose packaging has an area of less than ten square centimetres, need not by virtue of these Regulations be marked or labelled with any of the particulars specified in regulation 6 except the name of the food and, unless the food is not required to be marked or labelled with such an indication, an indication of minimum durability or, as the case may be, a “use by” date.

(2) This regulation does not apply to any food to which regulation 24, 25, 28, 29 or 31A applies.

(3) Until 1st January 1997 any bottle referred to in paragraph (1) need not be marked or labelled with an indication of minimum durability or, as the case may be, a “use by” date.”.

(9) For regulation 32(2)(d) there shall be substituted the following sub-paragraph—

“(d) in relevant trade documents furnished on or before delivery of the food and, in respect of the particulars required by regulation 6(a), (c) and (e), on the external packaging in which that food is sold.”.

(10) In regulation 35—

(a) in paragraphs (1) and (2) there shall be inserted after “of minimum durability”, on each occasion it occurs, “or, as the case may be, of a “use by” date”;

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) Paragraphs (1) and (2) shall not apply to any food sold in a bottle or packaging where such bottle or packaging is the subject of regulation 27.”.

(11) At the end of regulation 40(e) “or” shall be inserted and immediately following regulation 40(e) there shall be inserted the following paragraphs—

“(f) sells any food after the date shown in a “use by” date relating to it, or

(g) being a person other than whichever of the manufacturer, packer or seller established within the European Economic Community was originally responsible for so marking the food, alters the indication of minimum durability or, as the case may be, the “use by” date relating to that food.”.

(12) After regulation 41 there shall be inserted the following regulation—

“*Defence in cases of alteration of appropriate durability indication*

41A. In any proceedings for an offence under regulation 40(g) it shall be a defence for the person charged to prove that each alteration in respect of which the offence is alleged was effected under the written authorisation of a person capable of effecting that alteration without contravention of that provision.”.

(13) In Schedule 7 there shall be inserted after the entry concerning the description “dealcoholised” and the conditions applying thereto the following entry—

In column 1 (Words and descriptions)	In column 2 (Conditions)
“The description “low alcohol” or any other word or description which implies that the drink being described is low in alcohol	Shall not be applied to any alcoholic drink unless— <ul style="list-style-type: none"> <li>(a) the drink has an alcoholic strength by volume of not more than 1.2 per cent., and</li> <li>(b) the drink is marked or labelled with an indication of its maximum alcoholic strength (in one of the forms specified in regulation 31(1) immediately preceded by the words “not more than”).”.</li> </ul>

*Transitional provision*

3.—(1) It shall not be an offence under the principal Regulations to sell or advertise for sale any alcoholic drink described as “low alcohol” (or bearing any other word or description which implies that the drink being described is low in alcohol) in contravention of the provisions of regulation 38 of the principal Regulations and Schedule 7 thereto (as herein amended) where such drink was prepacked and labelled before the coming into operation of these Regulations.

(2) It shall not be an offence under the principal Regulations to sell before 1st April 1991 any food which is not marked or labelled with the appropriate durability indication referred to in regulation 6(c) in circumstances where that food is marked or labelled in accordance with what would have been the requirements of regulation 21 had these Regulations not come into operation.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 14th December 1990.

(L.S.)

*J. Scott*

Assistant Secretary

## EXPLANATORY NOTE

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

These Regulations further amend the Food Labelling Regulations (Northern Ireland) 1984 ("the principal Regulations"). They implement provisions of Council Directive 79/112/EEC (O.J. No. L33, 8.2.79, p. 1) on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs as added or varied by Council Directive 89/395/EEC (O.J. No. L186, 30.6.89, p. 17).

The Regulations omit provisions in the principal Regulations permitting the use of a "sell by" date and introduce provisions requiring a "use by" date for microbiologically highly perishable foodstuffs (regulation 2(2) to (10)). New offences are introduced for selling foods bearing an expired "use by" date and for anyone other than the person originally responsible for the date mark to change it (regulation 2(11) and (12)). New regulation 22(k) of the principal Regulations removes the exemption from date marking for deep frozen food, certain cheeses and long-life foods with effect from 20th June 1992 (regulation 2(7)). New regulation 27 of the principal Regulations extends the current limited labelling requirements for small packages to include indelibly marked glass bottles intended for re-use (regulation 2(8)). Substituted regulation 32(2)(d) of the principal Regulations requires certain information to be given on the packaging of the food if trade documents are used to convey labelling information (regulation 2(9)).

The Regulations also restrict the use of the description "low alcohol" (or any other word or description implying a low alcoholic content) to alcoholic drinks having an alcoholic strength by volume of not more than 1.2 per cent. (regulation 2(13)).

The Regulations come into operation on 1st January 1991 but there are transitional provisions establishing that no offence is committed in selling or advertising for sale alcoholic drinks described as "low alcohol" (or bearing any other word or description implying a low alcoholic content) but not meeting the new conditions where such drinks were prepacked and labelled before the coming into operation of the Regulations and permitting continuation of the observance of previous labelling conditions on durability until the end of March 1991 following which "use by" will become compulsory for microbiologically highly perishable foods (regulation 3).