

1968. No. 13

[C]

## FOOD AND DRUGS

## Composition, Labelling and Heat Treatment

## Ice-Cream and Other Frozen Confections

REGULATIONS, DATED 6TH FEBRUARY 1968, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTIONS 4, 7 AND 68 OF THE FOOD AND DRUGS ACT (NORTHERN IRELAND) 1958.

The Ministry of Health and Social Services, in exercise of the powers conferred upon it by sections 4, 7 and 68 of the Food and Drugs Act (Northern Ireland) 1958(a), having consulted with such organisations as appear to it to be representative of interests substantially affected by these regulations, and with the concurrence of the Ministry of Agriculture, hereby makes the following regulations:—

## PART I

## PRELIMINARY

*Citation and commencement*

1. These regulations may be cited as the Ice-Cream and Other Frozen Confections Regulations (Northern Ireland) 1968 and shall come into operation on 4th January 1971.

*Interpretation*

2.—(1) In these regulations—

“the Act” means the Food and Drugs Act (Northern Ireland) 1958;

“artificial sweetener” means any chemical compound which is sweet to the taste, but does not include any sugar or any polyhydric alcohol;

“complete cold mix” means a product which is capable of manufacture into a mixture with the addition of water only, is sent out by the manufacturer in airtight containers, and has been made by evaporating a liquid mixture which has already been submitted to heat treatment not less effective than that prescribed in these regulations and to which, after such treatment, no substance other than sugar has been added;

“composite article of food” means any article of food containing ice-cream or Parev ice and includes any sherbet, sorbet, water ice or ice lolly, as the case may be, containing ice-cream or Parev ice;

“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;

“ice-cream” means the frozen product intended for sale for human consumption which is obtained by subjecting an emulsion of fat, milk solids and sugar, with or without the addition of other substances, to heat treatment and either to subsequent freezing or to evaporation, addition of water and subsequent freezing, whether or not fruit, fruit pulp, fruit puree, fruit juice, sugar, flavouring or colouring materials, nuts, chocolate or other similar substances have been added before or after freezing, and includes any ice-cream present as an ingredient of

(a) 1958. c. 27.

- any composite article of food, but does not include any sherbet, sorbet, water ice or ice lolly described as "sherbet", "sorbet", "water ice" or "ice lolly", as the case may be;
- "mixture" means a product which is capable of manufacture into ice-cream, Parev ice, sherbets, sorbets, water ices, ice lollies or similar frozen confections, by freezing only;
- "Parev ice" includes Kosher ice and means the substance intended for sale for human consumption which resembles ice-cream and which—
- (a) is usually known as Parev ice or Kosher ice, and
  - (b) contains no milk or milk derivatives,
- and includes any Parev ice present as an ingredient of any composite article of food;
- "polyhydric alcohol" means an alcohol with three or more free hydroxyl groups;
- "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;
- "sugar" means any soluble carbohydrate sweetening matter.

(2) All percentages mentioned in these regulations are percentages calculated by weight.

(3) 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.

(4) 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.

### Exemptions

3. The following provisions of these regulations shall not apply, except insofar as they relate to advertisements other than labels or wrappers and to heat treatment, in relation to any ice-cream, any Parev ice or any other frozen confections—

- (a) sold, consigned or delivered for exportation to any place outside the United Kingdom; or
- (b) 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.

## PART II

### COMPOSITION

#### Composition of ice-cream and Parev ice

4.—(1) Any ice-cream and any Parev ice sold, consigned or delivered, shall comply with the compositional requirements specified in the appropriate following paragraph in relation to that ice-cream or Parev ice.

(2) Any ice-cream, other than any ice-cream to which paragraph (3), (4), (5) or (6) applies, shall contain not less than 5 per cent. fat and not less than  $7\frac{1}{2}$  per cent. milk solids other than fat.

(b) 15 & 16 Geo. 6 and 1 Eliz. 2. c. 67.

(3) Any ice-cream which contains any fruit, fruit pulp, fruit puree or fruit juice, other than any such ice-cream to which paragraph (5) or (6) applies, shall either—

(a) comply with the compositional requirements specified in paragraph (2), or

(b) have a total content of fat and milk solids other than fat of not less than  $12\frac{1}{2}$  per cent. of the whole product (including the fruit, fruit pulp, fruit puree or fruit juice, as the case may be) so, however, that not less than  $7\frac{1}{2}$  per cent. shall be fat and not less than 2 per cent. shall be milk solids other than fat.

(4) Any ice-cream described as "dairy ice-cream", "dairy cream ice" or "cream ice", other than any such ice-cream to which paragraph (5) applies, shall in each case contain—

(a) not less than 5 per cent. milk fat,

(b) no fat other than milk fat or any fat present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance, or any emulsifying or stabilising agent, and

(c) not less than  $7\frac{1}{2}$  per cent. milk solids other than fat.

(5) Any ice-cream described as "dairy ice-cream", "dairy cream ice" or "cream ice" which contains any fruit, fruit pulp, fruit puree or fruit juice shall either comply with the compositional requirements for such ice-cream specified in paragraph (4) or shall in each case—

(a) have a total content of milk fat and milk solids other than fat of not less than  $12\frac{1}{2}$  per cent. of the whole product (including the fruit, fruit pulp, fruit puree or fruit juice, as the case may be) so, however, that not less than  $7\frac{1}{2}$  per cent. shall be milk fat and not less than 2 per cent. shall be milk solids other than fat, and

(b) contain no fat other than milk fat or any fat present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance or any emulsifying or stabilising agent.

(6) Any ice-cream described as "milk ice", including any such ice-cream which contains any fruit, fruit pulp, fruit puree or fruit juice, shall contain—

(a) not less than  $2\frac{1}{2}$  per cent. milk fat,

(b) no fat other than milk fat or any fat present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance or any emulsifying or stabilising agent, and

(c) not less than 7 per cent. milk solids other than fat.

(7) Any Parev ice shall contain—

(a) not less than 10 per cent. fat, and

(b) no milk fat or other derivative of milk.

(8) No ice-cream of any kind nor any Parev ice shall contain any artificial sweetener.

(9) No person shall sell, consign or deliver, as the case may be, any ice-cream or any Parev ice in contravention of this regulation.

*General requirements as to composition and description of ice-cream and Parev ice*

5.—(1) No person shall sell any food under such a description as to lead an intending purchaser to believe that he is purchasing any ice-cream or any

Parev ice for which compositional requirements are specified unless the food complies with the appropriate compositional requirements specified in relation to that ice-cream or that Parev ice.

(2) Where a person sells any food to a purchaser in response to a request for any kind of ice-cream or Parev ice or for any composite article of food containing any ice-cream or Parev ice for which compositional requirements are specified, he shall be deemed to sell ice-cream of that kind or Parev ice or, as the case may be, a composite article of food containing ice-cream of that kind or Parev ice and under such a description as is specified in relation to that kind of food, unless he clearly notifies the purchaser at the time of sale that the food is not or, as the case may be, the composite article of food does not contain, ice-cream of that kind or Parev ice.

### PART III

#### LABELLING AND ADVERTISEMENT

##### *Labelling and description of ice-cream*

6.—(1) No person shall sell, consign or deliver in a container any ice-cream under the description "ice-cream" if such ice-cream contains any fat other than milk fat (save as may be present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance or any emulsifying or stabilising agent) unless such container bears a label on which there appears in immediate proximity to such description the words "contains non-milk fat":

Provided that if the ice-cream contains no fat, other than vegetable fat or any fat present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance or any emulsifying or stabilising agent, the words "contains vegetable fat" may appear as an alternative to the words "contains non-milk fat".

(2) No person shall sell by retail any ice-cream not in a container under the description "ice-cream" if such ice-cream contains any fat other than milk fat (save as may be present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance or any emulsifying or stabilising agent) unless the words "contains non-milk fat" appear on a ticket or notice in immediate proximity to such description:

Provided that—

- (a) if the ice-cream contains no fat, other than vegetable fat or any fat present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance or any emulsifying or stabilising agent, the words "contains vegetable fat" may appear as an alternative to the words "contains non-milk fat";
- (b) if the ice-cream is sold for immediate consumption at or near the place of sale or if it is sold without having been previously exposed for sale, and, in either case, no ticket or notice bearing the description "ice-cream" is visible to the purchaser at the time of sale, it shall be sufficient compliance with this paragraph if the purchaser is notified at or before delivery of the ice-cream to him that it contains non-milk fat or contains vegetable fat, as the case may be.

(3) All words which are required by virtue of paragraph (1) to appear on a label on a container or which in compliance with paragraph (2), appear on a ticket or notice shall conform to the requirements set out in Schedule 1.

*General requirements as to labelling and advertisement of ice-cream and Parev ice*

7.—(1) No person shall—

(a) give with any ice-cream, any Parev ice or any composite article of food sold by him, any label, whether attached to or borne on the container or not, or display with any ice-cream, any Parev ice, or any composite article of 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 ice-cream, any Parev ice or any composite article of food,

being a label, ticket, notice or advertisement, as the case may be, which bears or includes—

(i) the expression “ice-cream”, “dairy ice-cream”, “dairy cream ice”, “cream ice”, “milk ice”, “Parev ice” or “Kosher ice” unless—

(aa) such food complies with the appropriate compositional requirements specified in relation to food of that kind in regulation 4, or

(ab) the expression is used in such a context as to indicate clearly that the ice-cream or Parev ice, as the case may be, to which the expression relates is an ingredient with one or more others, of such food and such ice-cream or Parev ice complies with the compositional requirements specified in relation thereto in regulation 4;

(ii) any word, not being part of a true statement of all the ingredients of such ice-cream, or any pictorial device which refers to, or is suggestive of, butter, cream or milk or of anything connected with the dairy interest unless the ice-cream to which such label, ticket, notice or advertisement, as the case may be, relates, contains no fat other than any milk fat or any fat present by reason of the use as an ingredient of such ice-cream of any egg, any flavouring substance or any emulsifying or stabilising agent:

Provided that such label, ticket or notice may bear or such advertisement may include, as the case may be, a true statement to the effect that the ice-cream contains skimmed milk solids.

(2) Nothing in these regulations shall prevent the use in or on any label, ticket, notice or advertisement of—

(a) the expression “ice-cream”, in respect of any ice-cream which complies with the appropriate compositional requirements specified in regulation 4; or

(b) the name of the manufacturer, packer or advertiser of ice-cream or Parev ice or of any person selling ice-cream or Parev ice.

## PART IV

### HEAT TREATMENT

*Heat treatment of ice-cream and other frozen confections*

8. The requirements set out in Schedule 2 shall be observed in the manufacture of ice-cream, Parev ice, sherbets, sorbets, water ices, ice lollies or similar frozen confections intended for sale for human consumption:

Provided that the requirements set out in paragraph 2 thereof shall not apply to any mixture (whether containing milk solids or not) used, either alone or with other mixtures, in the manufacture of sherbets, sorbets, water

ices, ice lollies or other similar frozen confections if the mixture has a pH value of 4.5 or less.

9. No ice-cream, Parev ice, sherbet, sorbet, water ice, ice lolly or similar frozen confection shall be sold, consigned or delivered unless—

- (a) the relevant provisions of regulation 8 and Schedule 2 have been complied with in relation to its manufacture, and either
- (b) it has been kept at a temperature not exceeding 28° Fahrenheit (−2.2° Centigrade) since it was frozen, or
- (c) if its temperature has risen above 28° Fahrenheit (−2.2° Centigrade) at any time since it was frozen, it has again been subjected to the treatment (if any) to which as a mixture it was required to be subjected under paragraph 2 of Schedule 2 or would have been required to be subjected thereunder but for paragraph 1 of Schedule 2 and, after having again been frozen, has been kept at a temperature not exceeding 28° Fahrenheit (−2.2° Centigrade).

## PART V

### ADMINISTRATION AND GENERAL

#### *Penalties*

10.—(1) If any person contravenes or fails to comply with any of the foregoing provisions he shall be guilty of an offence and shall be liable on summary conviction—

- (a) to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

(2) The requirements of section 47(3) of the Act (which requires notice to be given to the Ministry of Health and Social Services of intention to begin a prosecution for an offence against any provisions of these regulations made under section 7 of the Act) shall not apply as respects any proceedings instituted by a health authority for an offence against any such provisions.

#### *Defences*

11.—(1) In any proceedings for an offence in relation to the publication of an advertisement, it shall be a defence for the defendant 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 the advertisement.

(2) In any proceedings against the manufacturer or importer of any ice-cream, any Parev ice or any composite article of food for an offence in relation to the publication of an advertisement, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

#### *Revocation*

12. The Ice-Cream (Composition, Heat Treatment, Labelling, etc.) Regulations (Northern Ireland) 1961(c) and 1963(d) are hereby revoked.

(c) S.R. & O. (N.I.) 1961, No. 161.

(d) S.R. & O. (N.I.) 1963, No. 172.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 6th day of February 1968.

(L.S.)

*S. H. O'Fee,*  
Assistant Secretary.

The Ministry of Agriculture hereby concurs with the foregoing regulations.

Sealed with the Official Seal of the Ministry of Agriculture for Northern Ireland this 6th day of February 1968.

(L.S.)

*H. S. Oliver,*  
Assistant Secretary.

## SCHEDULE 1

Regulation 6(3)

**Requirements as to marking of labels on containers and of tickets and notices**

1. Every word appearing on a label on a container, or on a ticket or notice, which is required so to appear by virtue of regulation 6 shall—

- (a) be clearly legible;
- (b) appear in a prominent position on the label, ticket or notice;
- (c) appear in dark coloured letters upon a light coloured ground or in light coloured letters upon a dark coloured ground;
- (d) be of uniform colour and in letters of uniform size, save that the initial letter in any such word may be taller than any other letter in that word;
- (e) appear in letters of such size that the height of the shortest letter in any such word shall be not less than 2 mms. and not less than one quarter the height of the tallest letter, other than an initial letter, in the word "ice-cream" to which such word is in immediate proximity.

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

## SCHEDULE 2

Regulation 8

**Heat Treatment**

1. Where a complete cold mix is used which is reconstituted with wholesome drinking water and to which nothing is added other than sugar, colouring or flavouring materials, fruit, nuts, chocolate or other similar substances, the reconstituted mixture shall be converted into ice-cream, Parv ice, sherbets, sorbets, water ices, ice lollies or similar frozen confections within one hour of reconstitution.

2. In any case other than that referred to in paragraph 1, after the ingredients have been mixed together the following provisions shall apply:—

- (a) the mixture shall not be kept for more than one hour at temperatures between 45° Fahrenheit (7.2° Centigrade) and 150° Fahrenheit (65.5° Centigrade) before being pasteurised or sterilised in accordance with subparagraph (b);
- (b) the mixture shall be subjected to one or other of the methods of pasteurisation or sterilisation set out hereunder:—

*Pasteurisation***METHOD I**

The mixture shall be raised to and kept at a temperature of not less than 150° Fahrenheit (65.5° Centigrade) for at least 30 minutes.

**METHOD II**

The mixture shall be raised to and kept at a temperature of not less than 160° Fahrenheit (71.1° Centigrade) for at least 10 minutes.

**METHOD III**

The mixture shall be raised to and kept at a temperature of not less than 175° Fahrenheit (79.4° Centigrade) for at least 15 seconds.

*Sterilisation*

The mixture shall be raised to and kept at a temperature of not less than 300° Fahrenheit (148.8° Centigrade) for at least 2 seconds;

- (c) the apparatus used for subjecting the mixture to pasteurisation by Method III or to sterilisation shall be thermostatically controlled and shall be fitted with a positive displacement pump or such other device as may be approved by the Ministry of Health and Social Services for ensuring a constant rate of flow of the mixture during its retention at the prescribed temperature and also with a device which, if any mixture has not been retained at the prescribed temperature, will automatically divert the flow of any such mixture or, as an alternative in the case of sterilisation, stop the apparatus;
- (d) after the mixture has been pasteurised or sterilised as aforesaid it shall be reduced to a temperature of not more than 45° Fahrenheit (7.2° Centigrade) within 1½ hours and shall be kept at such a temperature until the freezing process is begun:

Provided that

- (i) this requirement shall not apply to a mixture which has been sterilised in accordance with the requirements of sub-paragraph (b) if immediately after the mixture has been so sterilised it is placed in sterile airtight containers under sterile conditions and the containers remain unopened, and
- (ii) the temperature of a mixture may be allowed to rise above 45° Fahrenheit (7.2° Centigrade) when added to a mixture (having a pH value of 4.5 or less) for the preparation of sherbets, sorbets, water ices, iced lollies or other similar frozen confections if the combined mixture is frozen within one hour of combination;
- (e) any mixture to which proviso (i) to sub-paragraph (d) applies shall, upon the container being opened, be reduced forthwith to a temperature of not more than 45° Fahrenheit (7.2° Centigrade) and shall be kept at such a temperature until the freezing process is begun;
- (f) such indicating and recording thermometers shall be used as are necessary to indicate and record the temperatures to or at which the mixture is raised, kept and reduced;
- (g) the records of any thermometers used to record temperatures to or at which the mixture is raised, kept or reduced shall be preserved for a period of not less than one month;
- (h) all apparatus used for the purposes of this paragraph shall be installed, maintained and operated in a proper and efficient manner.

**3. In this Schedule—**

“ingredients” includes sugar and any whole egg, yolk or albumen (whether dried, frozen or preserved or not) but does not include colouring or flavouring materials or fruit, nuts, chocolate and other similar substances.



## EXPLANATORY NOTE

*(This note is not part of the Regulations, but is intended to indicate their general purport.)*

These regulations supersede with amendments the Ice-Cream (Composition, Heat Treatment, Labelling, etc.) Regulations (Northern Ireland) 1961 and 1963.

The regulations—

- (a) specify compositional requirements for ice-cream and Parev ice, including any ice-cream and any Parev ice present as an ingredient of any composite article of food (regulation 4);
- (b) specify requirements as to the labelling and advertisement of ice-cream and Parev ice (regulations 6, 7 and Schedule 1);
- (c) specify heat treatment requirements for ice-cream, Parev ice and similar frozen confections (regulations 8, 9 and Schedule 2).

The regulations, except insofar as they relate to advertisements other than labels or wrappers and to heat treatment, do not apply to ice-cream, Parev ice or other frozen confections sold for export or supplied for consumption by a visiting force, or which are sold to a manufacturer for the purposes of his manufacturing business, or to a caterer for the purposes of his catering business (regulation 3).