

1966 No. 1252 (S.95)

## FOOD AND DRUGS

## COMPOSITION AND LABELLING

## The Butter (Scotland) Regulations 1966

<i>Made</i>	- - -	<i>27th September 1966</i>
<i>Laid before Parliament</i>		<i>7th October 1966</i>
<i>Coming into Operation</i>		<i>1st September 1967</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 relate to the labelling, marking or description of food), I hereby make the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Butter (Scotland) Regulations 1966 and shall come into operation on 1st September 1967.

*Interpretation*

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

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

“butter” means the fatty substance intended for sale for human consumption which—

(a) is usually known as butter,

(b) is derived exclusively from cow's milk the pH of which may have been adjusted by the addition of an alkali carbonate, and

(c) may contain one or more of the following substances, namely salt, lactic acid cultures, annatto, carotene or turmeric,

and includes whey butter;

“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;

“human consumption” includes use in the preparation of food for human consumption;

“sell” includes offer or expose for sale or have in possession for sale, and

“sale” and “sold” shall be construed accordingly;

“sold by retail” means sold to a person buying otherwise than for the purpose of re-sale;

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 and, unless a contrary intention is expressed, are calculated on the weight of the butter as sold.

(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.

#### *Enforcement*

3.—(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(b), 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(c); 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.

#### *Exemptions*

4. The provisions of these regulations shall not apply in relation to—

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

#### *Composition of butter*

5.—(1) Subject to the provisions of this regulation, any butter sold, consigned or delivered shall contain—

- (a) not less than 80 per cent. milk fat,
- (b) not more than 2 per cent. milk solids other than fat, and
- (c) not more 16 per cent. water:

Provided that any such butter may contain less than 80 per cent. but not less than 78 per cent. milk fat—

(a) 1889 c. 63.  
(c) 1947 c. 43.

(b) 1897 c. 38.  
(d) 1952 c. 67.

- (i) if the amount by which the milk fat content percentage falls below 80 per cent., does not exceed the amount by which the percentage of salt in such butter exceeds 3 per cent.; and
- (ii) if the words "salted butter" appear clearly and legibly as or as part of or in close proximity to its name on a label on the container of such butter or, in the case of any butter sold by retail otherwise than in a container, on a ticket placed in immediate proximity to such butter.

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

*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 butter for which compositional requirements are specified in these regulations if the food does not comply with the appropriate requirements as to composition set out in these regulations in relation to that butter.

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

*Labelling and advertisement of butter*

7.—(1) Subject to the provisions of this regulation, no person shall give with any butter sold by him, or display with any butter offered or exposed by him for sale any label, whether attached to or printed on a container or not, or publish or be a party to the publication of any advertisement for butter—

- (a) in the case of such label or advertisement bearing or including, as the case may be, the word "butter", unless the butter complies with the compositional requirements specified in regulation 5 of these regulations;
- (b) in the case of butter which does not contain any added salt, unless such label or advertisement bears or includes, as the case may be, conspicuously and legibly, the words "unsalted butter";
- (c) in the case of butter to which the proviso to regulation 5(1) of these regulations applies, unless such label or advertisement bears or includes, as the case may be, conspicuously and legibly, the words "salted butter".

(2) Paragraph (1)(a) of this regulation shall not apply to any label or advertisement upon or in which, as the case may be, the word "butter" is used—

- (a) to describe any dehydrated butter, butter fat, or butter oil which is used as an ingredient of the food to which the label or advertisement refers, if such dehydrated butter, butter fat or butter oil, as the case may be, complies with the compositional requirements for butter specified in regulation 5 of these regulations;
- (b) in such a context as to indicate clearly that butter is used as an ingredient of the food to which the label or advertisement refers, if such butter complies with the compositional requirements specified in regulation 5 of these regulations; or
- (c) in such a context as to indicate clearly that the word "butter" does not refer to the presence in food of butter within the meaning of that word as defined in regulation 2(1) of these regulations.

*Penalties*

8.—(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*

9.—(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 butter, 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*

10.—(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*

11. On the coming into operation of these regulations the Food Standards (Butter and Margarine) (Scotland) Regulations 1956(a) shall cease to have effect in relation to any butter.

*William Ross,*

One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,  
Edinburgh, 1.  
27th September 1966.

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**EXPLANATORY NOTE**

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

These regulations, which apply to Scotland only, come into operation on 1st September 1967 and supersede the Food Standards (Butter and Margarine) (Scotland) Regulations 1956 in so far as those regulations apply to butter.

The regulations specify compositional requirements regulating the amount of milk fat, milk solids and moisture in butter, including salted and unsalted butter (regulation 5), and requirements for the labelling and advertisement of butter (regulation 7).

The regulations do not apply to butter sold for export, to butter sold for consumption by Her Majesty's forces or by a visiting force, or to butter sold to a caterer for the purposes of his catering business or to a manufacturer for the purposes for his manufacturing business (regulation 4).

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(a) S.I. 1956/1145 (1956 I, p. 1001).