
STATUTORY INSTRUMENTS

1987 No. 1986

FOOD

COMPOSITION AND LABELLING

The Coffee and Coffee Products
(Amendment) Regulations 1987

<i>Made</i>	- - - -	<i>19th November 1987</i>
<i>Laid before Parliament</i>		<i>1st December 1987</i>
<i>Coming into force</i>		
<i>For the purposes of regulations 1 and 4</i>		<i>22nd December 1987</i>
<i>For all other purposes</i>		<i>21st December 1988</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Social Services and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred upon them by sections 4, 7, 118 and 119 of the Food Act 1984⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 118(6) of the said Act with such organisations as appear to them to be representative of interests substantially affected by the said Regulations:—

Title and commencement

1. These Regulations may be cited as the Coffee and Coffee Products (Amendment) Regulations 1987, and shall come into force for the purposes of regulations 1 and 4 on 22nd December 1987; and for all other purposes 21st December 1988.

Amendment of the Coffee and Coffee Products Regulations 1978

2. The Coffee and Coffee Products Regulations 1978⁽²⁾ are hereby further amended:—

(a) by adding at the end of regulation 2 thereof the following paragraph:—

“(9) Where a designated product contains the ingredients coffee and chicory, or extracts of those ingredients, or extracts of coffee and fig, the reserved description of the product

(1) 1984 c. 30.

(2) S.I. 1978/1420; the relevant amending instruments are S.I. 1982/254, 1727 and 1985/67.

shall be such that in it the name of the ingredient of which the higher proportion was used in the manufacturing process shall precede the name of the other ingredient.”;

(b) by substituting for regulations 5 and 6 thereof the following regulations:—

“Labelling and description of designated products for retail sale

5.—(1) Without prejudice to the provisions of the Food Labelling Regulations 1984((3)) and subject to regulation 6, no person shall sell by retail, or consign or deliver pursuant to a sale by retail any designated product in a container unless that container is correctly marked or labelled with the following particulars:—

(a) subject to paragraph (2) below, a reserved description of the product, which shall be the name prescribed by law for that product for the purposes of regulation 7(1) of the Food Labelling Regulations 1984;

(b) the word “decaffeinated” in the case of:—

(i) a designated product specified in Part I of Schedule 1 produced from coffee which has been subjected to a decaffeination process and in which the residual anhydrous caffeine content determined according to the method of analysis referred to in item (1) of Schedule 2 does not exceed 0·10% of its coffee-based dry matter content, or

(ii) a designated product specified in Part II or Part IV of Schedule 1 produced from coffee which has been subjected to a decaffeination process and in which the residual anhydrous caffeine content determined according to the method of analysis referred to in item (1) of Schedule 2 does not exceed 0·30% of its coffee-based dry matter content;

(c) in the case of any of the following designated products, namely, liquid coffee extract, liquid chicory extract, liquid coffee and chicory extract, chicory and coffee essence and liquid coffee and fig extract:—

(i) the declaration “roasted with sugar”, if the product is obtained from the raw material roasted with sugar;

(ii) the declaration “with sugar”, “preserved with sugar”, or “with added sugar”, if the sugar has been added to the raw material after roasting,

the word “sugar” being replaced in that declaration by the name of any sugar product used instead of sucrose, which name shall be the reserved description of that product as specified in relation thereto in the Specified Sugar Products Regulations 1976((4)) or, if the sugar product has no such reserved description, the name of the product which, if the sugar product were itself being sold as a food, would be used, pursuant to the Food Labelling Regulations 1984, as the name of the food;

(d) in the case of the following designated products:—

(i) coffee extract paste and liquid coffee extract or mixtures containing these products, a declaration of the minimum coffee-based dry matter content expressed as a percentage;

(ii) chicory extract paste and liquid chicory extract or mixtures containing these products, a declaration of the minimum chicory-based dry matter content expressed as a percentage.

(3) S.I. 1984/1305; the relevant amending instrument is S.I. 1985/67.

(4) S.I. 1976/509; the relevant amending instrument is S.I. 1982/255.

(2) In the case of the designated product liquid coffee extract containing more than 25% coffee-based dry matter and of the designated product liquid chicory extract containing more than 45% chicory-based dry matter, the word “concentrated” may be added to the reserved description.

Labelling and description of designated products for non-retail sale

5A. Subject to regulation 6, no person shall sell otherwise than by retail, or consign or deliver pursuant to a sale otherwise than by retail, any designated product in a container unless that container is correctly marked or labelled with the following particulars:—

- (a) a reserved description of the product;
- (b) the name or business name and the address of the manufacturer, or packer or of a seller established within the Community;
- (c) a marking by which the batch can be identified;
- (d) in the case of a designated product containing any added permitted anti-caking agent in accordance with paragraph (a) of the proviso to regulation 8, the declaration “for use in vending machines only”.

Manner of marking or labelling

6.—(1) Regulations 32(1) and 34(1) and (2) of the Food Labelling Regulations 1984 (which relate to the manner of marking or labelling of food) shall apply to the particulars with which a designated product is required to be marked or labelled by regulation 5 as if they were particulars with which food is required to be marked or labelled by the Food Labelling Regulations 1984.

(2) Any indication of minimum durability required by regulation 21 of the Food Labelling Regulations 1984 shall appear in the labelling of the designated product sold by retail or consigned or delivered pursuant to a sale by retail in the same field of vision as the particulars required by regulation 5(1)(a), (b) and (c).

(3) The particulars with which any designated product is required to be marked or labelled by Regulation 5A shall appear on the container, on a label attached to the container or in an accompanying document.”;

- (c) by omitting, in regulation 8(e), the words and ellipsis “with added . . .”;
- (d) by substituting for the Schedules thereto the contents of the Schedule to these Regulations.

Amendment of the Food Labelling Regulations 1984

3. The Food Labelling Regulations 1984 are hereby further amended by substituting for paragraph (3) of regulation 5 thereof the following paragraph:—

“(3) This Part of these Regulations does not apply to any coffee, coffee mixture, coffee extract product, chicory extract product or other designated product as defined in the Coffee and Coffee Products Regulations 1978((5)) which is ready for delivery to a catering establishment.”.

Transitional provisions

4.—(1) In any proceedings in respect of an act done before 21st December 1988 which is alleged to constitute an offence under the Coffee and Coffee Products Regulations 1978, the defendant shall not be convicted of an offence—

- (a) against regulation 5 unless the prosecution prove that such act would have constituted an offence against regulation 5 or 5A as substituted for that regulation by regulation 2 of these Regulations if it had been in force when the act was done;
- (b) against regulation 6 unless the prosecution prove that such act would have constituted an offence against regulation 6 as substituted for that regulation by regulation 2 of these Regulations if it had been in force when the act was done.

(2) In any proceedings in respect of an alleged failure before 21st December 1988 to mark or label with a list of ingredients in accordance with Part III of the Food Labelling Regulations 1984 any coffee, coffee mixture, coffee extract product, chicory extract product or other designated product as defined in the Coffee and Coffee Products Regulations 1978, as amended by regulation 2(d) of these Regulations, and which is ready for delivery to a catering establishment, the defendant shall not be convicted of an offence.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

10th November 1987.

John MacGregor
Minister of Agriculture, Fisheries and Food

19th November 1987

John Moore
Secretary of State for Social Services

13th November 1987

Peter Walker
Secretary of State for Wales

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THE SCHEDULE

Regulation 2(d)

New Schedules 1 and 2 to the Coffee and Coffee Products Regulations 1978

“SCHEDULE 1

Regulations 2(1), 2(8), 4(2), 5(1)(b), 8(d)
and 8(e)

DESIGNATED PRODUCTS

PART I

coffee and coffee mixtures and their reserved descriptions

Column 1 <i>Reserved descriptions</i>	Column 2 <i>Coffee and Coffee Mixtures</i>
Coffee	The dried seed of the coffee plant whether or not such seed has been roasted or ground or both roasted and ground.
Coffee and chicory mixture or Mixture of coffee and chicory or Either of the two foregoing descriptions but with the words “coffee” and “chicory” transposed.	A mixture of roasted coffee and chicory which contains no substance other than roasted coffee and chicory.
NOTE: The reserved description shall be such that it accords with regulation 2(9)	
French coffee—coffee and chicory mixture or Coffee and chicory—French coffee or French coffee—mixture of coffee and chicory or Mixture of coffee and chicory—French coffee	A mixture of roasted coffee and chicory of which not less than 51% is coffee and which contains no substance other than roasted coffee and chicory.
Coffee with fig flavouring or	A mixture of roasted coffee and fig of which not less than 85% is coffee and which contains no substance other than roasted coffee and fig.

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Column 1 <i>Reserved descriptions</i>	Column 2 <i>Coffee and Coffee Mixtures</i>
Coffee with fig seasoning	
or	
Viennese coffee—coffee with fig flavouring	
or	
Coffee with fig flavouring—Viennese coffee	
or	
Viennese coffee—coffee with fig seasoning	
or	
Coffee with fig seasoning—Viennese coffee	

PART II

coffee extract products and their reserved descriptions

Column 1 <i>Reserved descriptions</i>	Column 2 <i>Coffee Extract Products</i>
Dried coffee extract	Coffee extract in powder, granular, flake, cube or other solid form, of which the coffee-based dry matter content, determined according to the method of analysis referred to in item (2) of Schedule 2, is not less than 95%.
or	
Dried extract of coffee	
or	
Instant coffee	
or	
Soluble coffee	
Coffee extract paste	Coffee extract in paste form, of which the coffee-based dry matter content, determined according to the method of analysis referred to in item (3) of Schedule 2, is not more than 85% and not less than 70%.
Liquid coffee extract	Coffee extract in liquid form, of which the coffee-based dry matter content, determined according to the method of analysis referred to in item (3) of Schedule 2 is not more than 55% but greater than 15%.

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Column 1 <i>Reserved descriptions</i>	Column 2 <i>Coffee Extract Products</i>
	NOTE: The product may contain added sugar products, whether or not roasted, in a proportion not exceeding 12%.

PART III

chicory extract products and their reserved descriptions

Column 1 <i>Reserved descriptions</i>	Column 2 <i>Chicory Extract Products</i>
Dried chicory extract or Instant chicory or Soluble chicory Chicory extract paste	Chicory extract in powder, granular, flake, cube or other solid form, of which the chicory-based dry matter content, determined according to the method of analysis referred to in item (2) of schedule 2, is not less than 95%. Chicory extract in paste form, of which the chicory-based dry matter content, determined according to the method of analysis referred to in item (3) of Schedule 2, is not more than 85% and not less than 70%.
Liquid chicory extract	Chicory extract in liquid form, of which the chicory-based dry matter content, determined according to the method of analysis referred to in item (3) of Schedule 2 is less than 55% but greater than 25%. NOTE: This product may contain added sugar products, whether or not roasted, in a proportion not exceeding 35%.

PART IV

blends of extracts and extracts of blends and their reserved descriptions

Column 1 <i>Reserved descriptions</i>	Column 2 <i>Blends of extracts and extracts of blends</i>
Dried coffee and chicory extract	An intimate mixture of coffee extract and chicory extract in powder, granular, flake, cube

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Column 1 <i>Reserved descriptions</i>	Column 2 <i>Blends of extracts and extracts of blends</i>
or	or other solid form, of which the coffee and chicory-based dry matter content in the finished product is not less than 95%.
Dried extract of coffee and chicory	
or	
Instant coffee and chicory	
or	
Soluble coffee and chicory	
or	
Any of the four foregoing descriptions but with the words “coffee” and “chicory” transposed.	
NOTE:	
The reserved description shall be such that it accords with regulation 2(9).	
Coffee and chicory paste	An intimate mixture of coffee extract paste and chicory extract paste in paste form, of which the coffee and chicory-based dry matter content in the finished product is not more than 85% and not less than 70%.
or	
Chicory and coffee paste	
NOTE:	
The reserved description shall be such that it accords with regulation 2(9).	
Liquid coffee and chicory extract	A homogenous mixture of liquid coffee extract and liquid chicory extract in liquid form, of which the coffee and chicory-based dry matter content in the finished product is not more than 55% but greater than 15%.
or	
Liquid chicory and coffee extract	
NOTE:	NOTE:
The reserved description shall be such that it accords with regulation 2(9).	This product may contain added sugar products, whether or not roasted in a proportion not exceeding 25%.
Chicory and coffee essence	A homogenous mixture of liquid form, of which the chicory-based dry matter content is not less than 20% and the coffee-based dry matter content is not less than 5% in the finished product.

NOTE:

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Column 1 <i>Reserved descriptions</i>	Column 2 <i>Blends of extracts and extracts of blends</i>
<p>Dried extract of coffee and fig or Dried coffee and fig extract or Instant coffee and fig or Soluble coffee and fig or Any of the four foregoing descriptions but with the words “coffee” and “fig” transposed.</p> <p>NOTE: The reserved description shall be such that it accords with regulation 2(9).</p>	<p>This product may contain added sugar products.</p> <p>An intimate mixture of coffee extract and fig extract in powder, granular, flake, cube or other solid form, of which the coffee and fig-based dry matter content in the finished product is not less than 95%.</p>
<p>Coffee and fig paste or Fig and coffee paste</p> <p>NOTE: The reserved description shall be such that it accords with regulation 2(9).</p>	<p>An intimate mixture of coffee extract paste and fig extract paste in paste form, of which the coffee and fig-based dry matter content in the finished product is not more than 85% and not less than 70%.</p>
<p>Liquid coffee and fig extract or Liquid fig and coffee extract</p> <p>NOTE: The reserved description shall be such that it accords with regulation 2(9).</p>	<p>A homogenous mixture of liquid coffee extract and liquid fig extract in liquid form, of which the coffee and fig-based dry matter content in the finished product is not more than 55% but greater than 15%.</p>
<p>NOTE: The reserved description shall be such that it accords with regulation 2(9).</p>	<p>NOTE: This product may contain added sugar products, whether or not roasted, in a proportion not exceeding 25%.</p>

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SCHEDULE 2

Regulation 5(1)(b) and Parts II and III of
Schedule 1

METHODS OF ANALYSIS

The methods of analysis listed in items (1), (2) and (3) of this Schedule are those prescribed in Annex II to the Commission Directive 79/1066/EEC⁽⁶⁾ laying down Community methods of analysis for testing coffee extracts and chicory extracts (hereinafter called “the Annex”) and are to be read with the General Provisions of the Annex.

(1) The method of determining the caffeine content in decaffeinated coffee extracts shall be that described as Method 1 in the Annex.

(2) The method for determining the dry matter content in—
dried coffee extract and dried chicory extract,
soluble coffee and soluble chicory,
instant coffee and instant chicory

shall be that described as Method 2 in the Annex.

(3) The method for determining the dry matter content in—
liquid coffee extract and liquid chicory extract,
coffee extract paste and chicory extract paste
shall be that described as Method 3 in the Annex.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England and Wales 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 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 Regulations 1978 (“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 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 extracts 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.

⁽⁶⁾ O.J. No. L327, 24.12.79, p.17.

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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 21st December 1988. Until then regulation 4 (which with regulation 1 comes into force on 22nd December 1987) provides that a defendant 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 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.