

# Welsh Statutory Instrument 2001 No. 1440 (W.102)

## The Coffee Extracts and Chicory Extracts (Wales) Regulations 2001

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### STATUTORY INSTRUMENTS

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#### 2001 No. 1440 (W.102)

#### FOOD, WALES

### The Coffee Extracts and Chicory Extracts (Wales) Regulations 2001

<i>Made</i>	<i>5th April 2001</i>
<i>Coming into force</i>	<i>1st May 2001</i>

In exercise of the powers conferred by sections 16(1)(a) and (e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990[1] and now vested in the National Assembly for Wales [2], the National Assembly for Wales, having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and (4B) of that Act, makes the following Regulations:

#### Citation, commencement and application

**1. These Regulations may be cited as the Coffee Extracts and Chicory Extracts (Wales) Regulations 2001, shall come into force on 1st May 2001 and shall apply to Wales.**

#### Interpretation

**2. - (1) In these Regulations -**

**"the Act" ("y Ddeddf") means the Food Safety Act 1990;**

**"chicory" ("sicori")** means the roots of *Cichorium Intybus L.*, other than the roots of plants used for the production of witloof chicory, and which have been suitably cleaned, dried and roasted;

**"chicory extract" ("echdynnyn sicori")** means the concentrated product obtained by extraction from roasted chicory using only water as the method of extraction (excluding any process of hydrolysis involving the addition of an acid or a base);

**"coffee extract" ("echdynnyn coffi")** means the concentrated product obtained by extraction from roasted coffee beans using only water as the medium of extraction (excluding any process of hydrolysis involving the addition of an acid or a base) and which contains only the soluble and aromatic constituents of coffee, apart from those insoluble substances which it is impossible to remove and insoluble oils derived from coffee;

**"designated product" ("cynnyrch dynodedig")** means any food specified in column 2 of Part I or II of the Schedule (as read with any Note in those columns relating to that food) but does not include any product which contains such a food as an ingredient and which is sold, consigned or delivered as a compound product;

**"the 1996 Regulations" ("Rheoliadau 1996")** means the Food Labelling Regulations 1996[3];

**"reserved description" ("disgrifiad neilltuedig")**, as respects any designated product, means any description specified in relation to that product in column 1 of Part I or II of the Schedule and the use of any such description in these Regulations shall be construed as meaning the designated product specified in relation to that description in column 2 of that Part;

**"sell" ("gwerthu")** includes offer or expose for sale or have in possession for sale, and a "sale" shall be construed accordingly.

(2) All proportions mentioned in these Regulations are proportions calculated by weight and, unless the context otherwise requires, are calculated on the total weight of the product.

(3) Any reference in these Regulations to the Schedule shall be construed as a reference to the Schedule to these Regulations.

**Scope of Regulations**

3. - (1) Subject to paragraph (2) below, these Regulations apply to coffee extracts and chicory extracts which are ready for delivery to the ultimate consumer or to a catering establishment.

(2) These Regulations do not apply to the product known as *café torrefacto soluble*.

(3) In this regulation -

**"catering establishment" ("sefydliad arlwyo")** means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

**"preparation" ("paratoi")** includes manufacture and any form of processing or treatment; and

**"ultimate consumer" ("defnyddiwr olaf") means any person who buys otherwise than -**

- (a) for the purpose of resale,**
- (b) for the purposes of a catering establishment, or**
- (c) for the purposes of a manufacturing business.**

#### **Reserved descriptions**

**4. No person shall give with any food sold by him or her, or display with any food offered or exposed by him or her for sale or in his or her possession for the purpose of sale, a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless -**

- (a) such food is the designated product to which the reserved description relates;**
- (b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food; or**
- (c) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not and does not contain a designated product.**

#### **Labelling and description of designated products**

**5. - (1) Without prejudice to the 1996 Regulations, no person shall sell any designated product unless it is 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 6(1) of the 1996 Regulations;**
- (b) the word "decaffeinated" in the case of a product specified in column 2 of Part I of the Schedule which has been subjected to a decaffeination process and in which the residual anhydrous caffeine content does not exceed 0.30% of its coffee-based dry matter content;**
- (c) in the case of a product specified in item 3 of column 2 of Part I or II of the Schedule in which sugar has been used, the words "with X", "preserved with X", "with added X" or "roasted with X", as appropriate, "X" being the name of the sugar product used, which name shall be the reserved description of that product 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 1996 Regulations, as the name of the food;**
- (d) in the case of a product specified in item 2 or 3 of column 2 of Part I of the Schedule, a declaration of the minimum coffee-based dry matter content expressed as a percentage; and**
- (e) in the case of a product specified in item 2 or 3 of column 2 of Part II of the Schedule, a declaration of the minimum chicory-based dry matter content**

**expressed as a percentage.**

**(2) In the case of a product specified in item 3 of column 2 of Part I of the Schedule containing more than 25% coffee-based dry matter and of a product specified in item 3 of column 2 of Part II of the Schedule containing more than 45% chicory-based dry matter, the word "concentrated" may be added to the reserved description.**

**(3) The information required by paragraph (1)(b) and (c) above shall be in the same field of vision as the reserved description required by paragraph (1)(a) above.**

#### **Manner of marking or labelling**

**6. Regulations 35, 36(1) and (5) and 38 of the 1996 Regulations (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 of these Regulations as if they were particulars with which food is required to be marked or labelled by the 1996 Regulations.**

#### **Penalties and enforcement**

**7. - (1) If any person contravenes or fails to comply with any of the provisions of these Regulations that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.**

**(2) Each food authority shall enforce and execute such provisions in its area.**

**(3) The methods used to determine the free and soluble carbohydrate content of coffee extracts shall be in conformity with paragraphs 1 and 2 of the Annex to Council Directive 85/591/EEC [5] concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs for human consumption and shall be validated or standardised.**

#### **Transitional provision**

**8. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that -**

**(a) the food concerned was marked or labelled before 13th September 2001, and**

**(b) the matters constituting the alleged offence would not have constituted an offence under the Coffee and Coffee Products Regulations 1978[6] if those Regulations had been in operation when the food was marked or labelled.**

#### **Defence in relation to exports**

**9. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that the food in respect of which the offence is alleged to have been committed was intended for export to a country (other than a Member State) which has legislation analogous to these Regulations and that the food complies with that legislation.**

#### **Application of various provisions of the Food Safety Act 1990**

**10. The following provisions of the Act shall apply for the purposes of these Regulations and, unless the context otherwise requires, any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations -**

**(a) section 2 (extended meaning of sale, etc.);**

- (b) section 3 (presumptions that food is intended for human consumption);**
- (c) section 20 (offences due to fault of another person);**
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15 of the Act;**
- (e) section 22 (defence of publication in the course of business);**
- (f) section 30(8) (which relates to documentary evidence);**
- (g) section 33 (obstruction, etc. of officers);**
- (h) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by paragraph (g) above;**
- (i) section 36 (offences by bodies corporate); and**
- (j) section 44 (protection of officers acting in good faith).**

#### **Amendment and revocation**

**11. - (1) In the 1996 Regulations (in so far as they apply to Wales) in regulation 4(2) (scope of Part II) sub-paragraph (e) shall be omitted.**

**(2) The following entries relating to the Coffee and Coffee Products Regulations 1978 shall (in so far as the following Regulations apply to Wales), be omitted -**

- (a) in the Food (Revision of Penalties) Regulations 1982[7], in Schedule 1;**
- (b) in the Food (Revision of Penalties) Regulations 1985[8], in Schedule 1, Part I;**
- (c) in the Food Safety Act 1990 (Consequential Modifications) (England and Wales) Order 1990[9], in Schedule 1, Part I, Schedule 2, Schedule 3, Part I and Schedules 6 and 12;**
- (d) in the Food Safety (Exports) Regulations 1991[10], in Schedule 1, Part I;**
- (e) in the Food (Forces Exemptions) (Revocations) Regulations 1992[11], in Schedule 1, Part I;**
- (f) in the Miscellaneous Food Additives Regulations 1995[12], in Schedule 9;**
- (g) in the 1996 Regulations, regulation 49(7).**

**(3) The Coffee and Coffee Products Regulations 1978, the Coffee and Coffee Products (Amendment) Regulations 1982 [13] and the Coffee and Coffee Products (Amendment) Regulations 1987 [14] are hereby revoked insofar as they apply to Wales.**

**Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[15].**

***D. Elis Thomas***  
**The Presiding Officer of the National Assembly**

5th April 2001

THE SCHEDULE

Regulation 2 and 5

PART 1

COFFEE EXTRACTS AND THEIR RESERVED DESCRIPTIONS

<i>Column 1</i>		<i>Column 2</i>
<i>Reserved descriptions</i>		<i>Coffee Extract Products</i>
1. "Coffee extract" or "Soluble coffee extract" or "Instant coffee" or "Soluble coffee"		Coffee extract in powder, granular, flake, cube or other solid form, of which the coffee-based dry matter content is not less than 95%, containing no substances other than those derived from the extraction of coffee.
2. "Coffee extract" or "Soluble coffee extract" or "Instant coffee" or "Soluble coffee"	supplemented in each case by the word "paste" or the words "in paste form"	Coffee extract in paste form, of which the coffee-based dry matter content is not more than 85% and not less than 70%, containing no substances other than those derived from the extraction of coffee.
3. "Coffee extract" or "Soluble coffee extract" or "Instant coffee" or "Soluble coffee"	supplemented in each case by the word "liquid" or the words "in liquid form"	Coffee extract in liquid form, of which the coffee-based dry matter content is not more than 55% and not less than 15%.
NOTE:  The product may contain added sugar products, whether or not roasted, in a proportion not exceeding 12%.		

PART II

CHICORY EXTRACTS AND THEIR RESERVED DESCRIPTIONS

<i>Column 1</i>	<i>Column 2</i>
<i>Reserved descriptions</i>	<i>Chicory Extract Products</i>
1. "Chicory extract" or "Instant chicory"	Chicory extract in powder, granular, flake,

or "Soluble chicory"		cube or other solid form, of which the chicory-based dry matter content is not less than 95%.  NOTE:  This product may contain not more than 1% of substances not derived from chicory.
2. "Chicory extract" or "Instant chicory" or "Soluble chicory"	supplemented in each case by the word "paste" or the words "in paste form"	Chicory extract in paste form, of which the chicory-based dry matter content is not more than 85% and not less than 70%.  NOTE:  This product may contain not more than 1% of substances not derived from chicory.
3. "Chicory extract" or "Instant chicory" or "Soluble chicory"	supplemented in each case by the word "liquid" or the words "in liquid form"	Chicory extract in liquid form, of which the chicory-based dry matter content is not more than 55% and not less than 25%.
NOTE:  This product may contain added sugar products, whether or not roasted, in a proportion not exceeding 35%.		

EXPLANATORY NOTE

*(This note does not form part of the Regulations)*

1. These Regulations, which apply to Wales, implement Directive 1999/4/EC of the European Parliament and the Council relating to coffee extracts and chicory extracts (OJ No. L66,13.3.1999, p.26). They revoke and replace the Coffee and Coffee Products Regulations 1978, as amended, in relation to Wales.

2. The Regulations -

(a) prescribe definitions and reserved descriptions for coffee extracts and chicory extracts (regulation 2 and the Schedule);

(b) provide for the Regulations to apply to coffee extracts and chicory extracts ready for delivery to the ultimate consumer or to a catering establishment, except for the product known as *café torrefacto soluble* (regulation 3);

(c) restrict the sale of food bearing a reserved description other than food to which the description relates (regulation 4);

(d) require reserved descriptions and specified declarations to be applied to designated products, and prescribe the manner of marking or labelling to be employed; certain provisions of the Food Labelling Regulations 1996, which govern the labelling of coffee extracts and chicory extracts except so far as specifically provided for in these Regulations, are applied to these specific requirements (regulations 5 and 6);

(e) provide for penalties and enforcement, include a transitional provision, and a defence in relation to exports (in accordance with Articles 2 and 3 of Council Directive 89/397/EEC (OJ No. L186, 30.6.89, p.23) on the official control of foodstuffs), apply various provisions of the Food Safety Act 1990 and make amendments and revocations (regulations 7 to 11).

3. A regulatory appraisal for these Regulations has been prepared pursuant to section 65 of the Government of Wales Act 1998 and placed in the Library of the National Assembly for Wales. Copies may be obtained from the Food Standards Agency, 1st Floor, Southgate House, Cardiff CF10 1EW.

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*Notes:*

[1] 1990 c.16.back

[2] Functions of "the Ministers" under the Food Safety Act 1990, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999 No. 672).back

[3] SI 1996 No. 1499; the relevant amending instrument is SI 1998 No. 1398.back

[4] SI 1976 No. 509; the relevant amending instrument is SI 1982 No. 255.back

[5] OJ No. L372, 31.12.1985, p.50.back

[6] SI 1978 No. 1420; relevant amending instruments are SI 1982 No. 254, 1987 No. 1986, 1990 No. 2486, 1991 No. 1476, 1992 No. 2596, 1995 No. 3187, 1996 No. 1499.back

[7] SI 1982 No. 1727.back

[8] SI 1985 No. 67.back

[9] SI 1990 No. 2486back

[10] SI 1991 No. 1476back

[11] SI 1992 No. 2596.back

[12] SI 1995 No. 3187.back

[13] SI 1982 No. 254.back

[14] SI 1987 No. 1986.back

[15] 1998 c.38.back



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