
MARGARINE REGULATIONS, 1988

Regulations made under sections 6, 8 and 58.

Subsidiary
1988/006

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(LN. 1988/006)

1.3.1988

| Amending enactments | Relevant current provisions | Commencement date |
|---------------------|-----------------------------|-------------------|
| 1990/058 | Sch. 1 and 2 | 1.7.1990 |

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Title and commencement.

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1.(1) These regulations may be cited as the Margarine Regulations, 1988.

(2) These regulations shall come into operation on the 1st day of March, 1988.

Interpretation.

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

“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 and includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include-

- (a) water, live animals or birds,
- (b) fodder or feeding stuffs for animals, birds or fish, or
- (c) articles or substances used only as drugs;

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

“margarine” means the food usually known as margarine, being a plasticised emulsion of edible oils and fats with water or skimmed milk, with or without the addition of vitamins A and D, sodium chloride, sugars and other minor ingredients and permitted additives;

“the Act” means the Food and Drugs Act;

“permitted additive” means any colouring matter, antioxidant, emulsifier, stabiliser, preservative or solvent, as the case may be, inasmuch as its use in margarine is permitted by the appropriate regulations mentioned in Schedule I to these regulations;

“sell” includes offer or expose for sale or have in possession for sale, and ‘sale’ and ‘sold’ shall be construed accordingly;

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“sell by retail” means sell to a person buying otherwise than for the purpose of re-sale, and ‘sold by retail’ shall be construed accordingly;

“vitamin A” means vitamin A present as such or as its esters and includes beta-carotene on the basis that 0.75 micrograms of beta-carotene shall be regarded as equivalent to 1.0 international unit of vitamin A;

“vitamin D” means the anti-rachitic vitamins;

AND other expressions have the same meaning as in the Act.

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

(3) Any references 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 a reference to purchasing and purchaser shall be construed accordingly.

(5) Any reference in these regulations to any other regulations shall be construed as a reference to such regulations as amended by any subsequent regulations.

Exemption.

3. The following provisions of these regulations shall not apply in relation to any margarine-

- (a) sold, consigned or delivered for exportation to any place outside Gibraltar; or
- (b) sold, consigned or delivered to a manufacturer for the purposes of his manufacturing business;

and the provisions of regulations 4, 5, 6 and 8 of these regulations shall not apply to any margarine sold, consigned or delivered to a caterer for the purposes of his catering business.

Composition of margarine.

4. (1) Any margarine sold, consigned or delivered-

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(a) shall contain not less than 80% of fat of which not more than one tenth calculated by weight may be fat derived from milk, and

(b) shall not contain more than 16% of water.

(2) No person shall sell, consign or deliver, as the case may be, any margarine in contravention of this regulation.

Vitamin content of margarine.

5. (1) Any margarine sold by retail shall contain in every ounce of such margarine-

(a) not less than 760 international units and not more than 940 international units of vitamin A, and

(b) not less than 80 international units and not more than 100 international units of vitamin D, and a proportionate amount in any part of an ounce.

(2) No person shall sell be retail any margarine in contravention of 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 margarine for which compositional requirements are specified in these regulations unless the food complies with the appropriate compositional requirements set out in these regulations in relation to that margarine.

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

Labelling and advertising of margarine.

7. No person shall give with any margarine sold by him any label, whether attached to or borne on the container or not, or display with any margarine offered or exposed by him for sale any ticket or notice, being a label, ticket or notice as the case may be, which-

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- (a) bears or includes any description of margarine, any brand or descriptive name or any pictorial device which, in any such case, refers to, or is suggestive of, butter or of anything connected with the dairy interest;
- (b) claims that the margarine contains or is made with cream or milk unless-
 - (i) such claim is made in the following words (and no others), that is to say: made with (X), milk-fat equivalent to (Y)% of butter' inserting at (X) the word 'cream' or the word 'milk', as the case may be and at (Y) the figure which represents the minimum percentage of butter calculated on the amount of milk-fat introduced by the cream, or the milk, as the case may be, and
 - (ii) such claim is made in letters or figures all of which, other than initial letters, are of equal size;
- (c) claims that the margarine contains butter unless-
 - (i) such claim states the minimum percentage of butter which the margarine contains, and
 - (ii) the letters of the word 'butter' contained in any such claim are not taller than the letters of the word or the figures, as the case may be, which indicate such minimum percentage of butter;
- (d) bears or includes any brand or descriptive name unless the word 'margarine' appears in immediate proximity to such brand or descriptive name at least once, in accordance with the requirements set out in Schedule 2 to these regulations;
- (e) bears or includes the word 'butter', 'cream' or 'milk', or any word suggestive of butter, cream or milk, or any brand or descriptive name derived from the words 'butter', 'cream' or 'milk' in letters taller than those used for the word 'margarine'.

Labelling and advertisement of margarine

8. (1) No person shall publish, or be party to the publication of any advertisement for margarine unless-

- (a) when it is presented visually, the word 'margarine' appears clearly and prominently at least once;

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- (b) when it is presented orally, the word 'margarine' is spoken audibly and clearly at least once.

(2) No person shall publish, or be a party to the publication of any advertisement for margarine which includes any brand or descriptive name unless-

- (a) when it is presented visually, the word 'margarine' appears in accordance with the requirements set out in Schedule 2 to these regulations, at least once, immediately before or immediately after such brand or descriptive name;

- (b) when it is presented orally, the word 'margarine' is spoken audibly and clearly at least once, immediately before or immediately after such brand or descriptive name.

(3) No person shall publish or be a party to the publication of any advertisement for margarine which-

- (a) includes any description of margarine, any brand or descriptive name or any pictorial device, which in any such case, refers to, or is suggestive of, butter or of anything connected with the dairy interest;

- (b) claims that the margarine contains or is made with cream or milk unless-

- (i) such claim is made in the following words (and no other that is to say: made with (X), milk-fat equivalent to (Y)% of butter' inserting at (X) the word 'cream' or the word 'milk', as the case may be, and at (Y) the figure which represents the minimum percentage of butter calculated on the amount of milk-fat introduced by the cream, or the milk, as the case may be, and

- (ii) such claim, if presented visually, is made in letters or figures all of which, other than initial letters, are of equal size;

- (c) claims that the margarine contains butter unless-

- (i) such claim states the minimum percentage of butter which the margarine contains, and

- (ii) the letters of the word 'butter' contained in any such claim, if presented visually, are not taller than the letters of the word or the figures, as the case may be, which indicate such minimum percentage of butter;

- (d) includes the word 'butter', 'cream' or 'milk', or any word suggestive of butter, cream or milk, or any brand or descriptive name derived from the words 'butter', 'cream' or 'milk' in letters taller than those used for word 'margarine'.

No person shall.

- 9. (a) give with any food sold by him, any label, whether attached to or borne on the container or not, or display with any food offered or exposed by him for sale, any ticket or notice, or
- (b) publish, or be party to the publication or any advertisement for any food, being a label, ticket, notice or advertisement, as the case may be, which bears or includes the word 'margarine' unless-
 - (i) such food complies with the appropriate compositional requirements specified in regulations 4 and 5 of these regulations, or
 - (ii) the word is used in such a context as to indicate clearly that the margarine to which it relates is an ingredient, with one or more others, of such food and such margarine complies with the compositional requirements specified in regulation 4 of these regulations, or
 - (iii) the word is used in such a context as to indicate explicitly or by clear implication that such food is not margarine and does not include any.

Penalties.

10. If any person contravenes or fails to comply with any of the foregoing provisions of these regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Defences.

11.(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 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.

(2) In any proceedings against the manufacturer or importer of any margarine or of any food containing margarine for an offence against these

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regulations 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.

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Application of various sections of the Act

12. Sections 46(2) and (3) (which relate to prosecutions), 47(1) and (2) (which relate to evidence of analysis), 49 (which relates to the power of a court to require analysis by the Government Chemist in the United Kingdom), 50 (which relates to a contravention due to some person other than the person charged), 51(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 52 (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 or brought under the Act included references to proceedings, or a prosecution, as the case may be, taken or brought for an offence under these regulations and as if the reference in the said Section 49 to subsection (3) of Section 46 included a reference to that subsection as applied by these regulations.

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SCHEDULE 1

The Colouring Matter in Food Regulations 1980.

The Antioxidant in Food Regulations 1987.

The Emulsifiers and Stabilisers in Food Regulations 1990.

The Preservatives in Food Regulations 1987.

The Solvents in Food Regulations 1987.

SCHEDULE 2.

Requirements as to marking on labels on containers, on tickets and notices and in advertisements.

1. Where the word 'margarine' appears on a label on a container, or on a ticket or notice, pursuant to regulation 7(d) of these regulations, or in an advertisement pursuant to regulation 8(2)(a) of these regulations, it shall be clearly legible and indelible and, on a sale to the ultimate consumer, it shall be marked in a conspicuous place in such a way as to be easily visible.

2. Where the word 'margarine' appears as aforesaid, it shall not in any way be hidden, obscured or interrupted by any other written or pictorial matter.

3. In this Schedule 'ultimate consumer' has the meaning assigned to it by the Food Labelling Regulations 1987.