

EUROPEAN COMMUNITIES (LABELLING, PRESENTATION AND ADVERTISING OF FOODSTUFFS) REGULATIONS 1982

I, DESMOND O'MALLEY, Minister for Trade, Commerce and Tourism, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive No. 79/112/EEC of 18 December, 1978, hereby make the following Regulations:
10.J. No. L33/1 8.2.79 p. 1

REG 1

1. These Regulations may be cited as the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations, 1982.

REG 2

2. These Regulations, other than Regulations 1 to 4, shall come into operation on such day as may be fixed by the Minister by regulations under section 3 of the European Communities Act, 1972.

REG 3

3. (1) In these Regulations—

"authorised officer" means—

(a) an officer of the Minister, or

(b) a person designated by the Minister for Health, who is authorised in writing by the Minister to be an authorised officer for the purposes of these Regulations;

"catering establishment" means a restaurant, canteen, club, school, hospital or other similar establishment where food is prepared for delivery to the ultimate consumer for immediate consumption;

"the Council Directive" means Council Directive No. 79/112/EEC of 18 December, 1978;

"the Minister" means the Minister for Trade, Commerce and Tourism;

"sell" includes agree or offer to sell or expose for sale, or invite an offer to buy, and cognate words shall be construed accordingly.

(2) A word or expression that is used in these Regulations and is also used in the Council Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Directive.

REG 4

4. The Merchandise Marks (Prepacked Goods) (Marking and Quantities) Order, 1973 (S.I. No. 28 of 1973), the Merchandise Marks (Prepacked Goods) (Marking and Quantities) (Amendment) Order, 1973 (S.I. No. 267 of 1973), the Merchandise Marks (Prepacked Goods) (Marking and

Quantities) (Amendment) Order, 1979 (S.I. No. 222 of 1979), and the Merchandise Marks (Prepacked Goods) (Marking and Quantities) (Amendment) Order, 1981 (S.I. No. 394 of 1981), in so far as they require containers in which goods are packed to bear notices complying with the provisions of those Orders, shall not apply in relation to foodstuffs that comply with the provisions of the Council Directive and these Regulations.

REG 5

5. (1) A person shall not sell foodstuffs unless they comply with the provisions of the Council Directive and these Regulations.
(2) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.

REG 6

6. (1) These Regulations (other than Regulation 7) shall not apply to the sale of foodstuffs (other than foodstuffs intended for sale prepackaged to the ultimate consumer) in or to a catering establishment.
- (2) (a) These Regulations shall not apply to the sale of—
(i) (I) prepackaged foodstuffs that are prepackaged by a person who sells the foodstuffs by retail on the premises where they are prepackaged or from a vehicle used by him, or
(II) flour confectionery prepackaged for sale on premises where business is carried on by the person by whom the foodstuffs are produced,
(ii) any foodstuffs where the sale is a sale to the ultimate consumer without prepackaging, or
(iii) any foodstuffs which are packaged on the sales premises at the request of the ultimate consumer,
if the foodstuffs comply with subparagraph (b) or (c), as may be appropriate, of this paragraph.
- (b) Where foodstuffs specified in clause (i) of subparagraph (a) of this paragraph are sold, they shall bear indications on the labelling complying with the Council Directive of the names of the foodstuffs.
- (c) Where foodstuffs specified in clauses (ii) and (iii) of the said subparagraph (a) are sold, then, at the option of the seller, either—
(i) they shall bear indications on the labelling in accordance with the Council Directive of the names of the foodstuffs, or
(ii) the names of the foodstuffs shall be stated in a notice displayed in a prominent position near the point of sale and otherwise complying with these Regulations.
- (3) A notice displayed pursuant to this Regulation shall be deemed not to comply with this Regulation unless—
(a) the particulars therein are easily visible, clearly legible and indelible and are not in any way hidden, obscured or interrupted by other written or pictorial matter, and
(b) the notice is easily visible to a purchaser of the foodstuffs to which it relates at the point of sale thereof and is not hidden or obscured.
- (4) (a) Subject to subparagraph (b) of this paragraph, these

Regulations shall not apply to the sale of individually wrapped fancy confectionery products which are not enclosed in any further packaging and which are intended for sale as single items.

(b) Where foodstuffs specified in subparagraph (a) of this paragraph are sold, they shall bear indications on the labelling complying with the Council Directive of the names of the foodstuffs, and the names and addresses of the manufacturers, packers or sellers thereof.

(5) These Regulations shall not apply to foodstuffs intended to be exported from the State.

(6) In this Regulation "fancy confectionery product" means any confectionery product in the form of a figure, animal, cigarette or egg or in any other fancy form.

REG 7

7. (a) Where prepackaged prepared meals or prepackaged sandwiches, filled rolls or similar bread products are sold—

(i) they shall bear indications on the labelling complying with the Council Directive of the names of the foodstuffs, or

(ii) the names of the foodstuffs shall be stated in a notice displayed in a prominent position near the point of sale and otherwise complying with these Regulations.

(b) Subparagraph (a) of this paragraph shall not apply in relation to foodstuffs specified therein that are sold in or to a catering establishment unless they are sold or intended to be sold prepackaged to the ultimate consumer.

REG 8

8. (1) Notwithstanding anything in the Council Directive, Articles 3.1 (4) and 9 of the Council Directive—

(a) shall not apply in relation to:

(i) foodstuffs whose minimum durability exceeds 18 months,

(ii) deep-frozen foodstuffs,

(iii) ice-creams,

(iv) chewing gums and similar chewing products, or

(v) fermented cheese intended to ripen completely or partially in prepackaging,

and

(b) shall not apply until the 22nd day of December, 1984, in relation to foodstuffs which will keep for more than 12 months.

(2) Notwithstanding anything in the Council Directive, Article 3.1

(3) and 8 of the Council Directive shall not apply to—

(a) chocolate confectionery products to which the Food Standards (Cocoa and Chocolate Products) (European Communities) Regulations, 1975 (S.I. No. 180 of 1975), do not apply, or

(b) sugar confectionery products, being products that have a net weight of less than 50 grams.

REG 9

9. Notwithstanding anything in the Council Directive, the provisions of the Council Directive relating to the giving of the particulars

provided for in Article 3 thereof shall—

(a) in the case of foodstuffs that are prepackaged and marketed prior to their sale to the ultimate consumer, be deemed to be complied with, in so far as those provisions apply to such marketing, if the particulars are given only on the relevant trade documents,

(b) In the case of foodstuffs in packaging or containers the largest surface of which has an area of less than 10 cm , be deemed to be complied with if subparagraphs (1), (3) and (4) of paragraph 1 of the said Article 3 are complied with, and

(c) in the case of milk or milk products in bottles intended for re-use, be deemed to be complied with if the said subparagraphs (1), (3) and (4) and subparagraph (6) (in so far as it relates to indication of the name or business name of the manufacturer, packager or seller of foodstuffs) of the said paragraph 1 are complied with.

REG 10

10. Notwithstanding anything in the Council Directive, the provisions of Article 3.1 (6) shall, in the case of butter produced in the State, be deemed to be complied with if an indication is given in accordance with the Council Directive of the manufacturer, packager or seller of the butter.

REG 11

11. Notwithstanding anything in the Council Directive, the provisions of the second indent of Article 6.5. (b) of the Council Directive shall be deemed to be complied with if an indication of the names of the categories listed in Annex II to the Council Directive to which the ingredients of the foodstuffs concerned belong is given on the labelling of the foodstuffs concerned.

REG 12

12. (1) The requirement in Article 8.2 (d) of the Council Directive in relation to indication of the total number of individual packages in a prepackaged item consisting of two or more individual packages shall not apply in relation to prepackaged items consisting of two or more individually wrapped slices of cheese, or two or more individually wrapped pieces of sugar confectionery, or two or more individually wrapped pieces of chocolate confectionery to which the Food Standards (Cocoa and Chocolate Products) (European Communities) Regulations, 1975, do not apply, being items which are not intended to be units of sale.

(2) Article 8.1 of the Council Directive shall not apply in relation to foodstuffs normally sold by number if the number of items can be clearly seen and easily counted from the outside or, if not, is indicated on the labelling.

REG 13

13. Indication of particulars on the labelling of foodstuffs in pursuance of the Council Directive and these Regulations shall be in

a language easily understood by purchasers of the foodstuffs.

REG 14

14. (1) An authorised officer may at all reasonable times enter—
(a) any premises in which he has reasonable grounds for believing that any foodstuffs are kept, sold or being manufactured, or

(b) any railway wagon, vehicle, ship, vessel or aircraft in which he has reasonable grounds for believing that any foodstuffs are being transported for sale or kept for sale, and there or at any other place—

(i) inspect and take copies of or extracts from any books, records or other documents which he finds in the course of his inspection, and

(ii) (I) make such examinations, tests and inspections, and (II) take such samples of any foodstuffs or of materials or articles used or intended for use in the manufacture or preparation of foodstuffs which he finds in the course of his inspection, as he may consider appropriate for the purposes of these Regulations and the Council Directive.

(2) A person in charge of premises or of a railway waggon, vehicle, ship, vessel or aircraft shall—

(a) afford to an authorised officer such facilities and assistance as are reasonably necessary to enable the officer to perform his functions under this Regulation,

(b) produce to an authorised officer any books, documents or other records which he may reasonably require,

(c) give to an authorised officer any information which he may reasonably require regarding—

(i) any foodstuffs on the premises or in the wagon, vehicle, ship, vessel or aircraft or

(ii) any books, documents or other records produced to him pursuant to this Regulation.

(3) Where a sample is taken pursuant to this Regulation, the authorised officer concerned shall divide the sample into not more than four approximately equal parts each of which he shall mark in such a way as to identify it as a part of the sample taken by the officer.

(4) Where an authorised officer takes a sample consisting of a food contained in unopened containers and the division into parts of the food—

(a) is not reasonably practicable, or

(b) might affect the composition or impede the proper analysis of the contents,

the authorised officer shall divide the containers into not more than four lots each of which he shall mark in such a way as to identify it as a part of the sample taken by the officer.

(5) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on, a sample taken pursuant to this Regulation shall not be adduced unless before the proceedings were instituted one of the parts into which the sample was divided pursuant to this Regulation was left with or transmitted to the defendant.

(6) An authorised officer shall be furnished with a certificate of

his appointment as an authorised officer and when exercising any power conferred on an authorised officer by this Regulation shall, if so requested by a person affected, produce the certificate for the inspection of the person.

(7) A person who obstructs or interferes with an authorised officer in the course of exercising a power conferred on him by this Regulation or fails or refuses to comply with a request made by or to answer a question asked by an authorised officer pursuant to this Regulation shall be guilty of an offence.

REG 15

15. (1) A person guilty of an offence under Regulation 5 of these Regulations shall be liable upon summary conviction to a fine not exceeding £800 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment.

(2) A person guilty of an offence under Regulation 14 of these Regulations shall be liable upon summary conviction to a fine not exceeding £500.

REG 16

16. (1) In proceedings for an offence under these Regulations in which it is proved that particulars are given on the labelling of the foodstuffs concerned and that the foodstuffs do not comply with the provisions of the Council Directive or these Regulations by reason of the incorrectness of one or more of the particulars so given or by reason of the omission of one or more of the particulars required by the Council Directive and these Regulations to be given, it shall be a defence for the defendant to prove:

(a) (i) that he received the foodstuffs as being in compliance with the Council Directive and these Regulations and with a written warranty to that effect.

(ii) that he had no reason to believe at the time when he disposed of the foodstuffs that they did not comply with the Council Directive and these Regulations, and

(iii) that the foodstuffs, when disposed of by him, were in the same state as when he received them,

and

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or any other person under his control.

(2) (a) A statement by the manufacturer, importer or seller of foodstuffs in an invoice or on a label attached to the foodstuffs or on the packet or container in which the foodstuffs are sold that the foodstuffs comply with the provisions of the Council Directive and these Regulations shall be deemed for the purposes of paragraph (1) (a) of this Regulation to be a warranty.

(b) A statement of the kind referred to in subparagraph (a) of this paragraph by the manufacturer of imported foodstuffs shall be deemed, for the purposes of this paragraph, to have been made by the importer of the foodstuffs.

(3) A person shall not, without leave of the court, be entitled to rely on the defence in paragraph (1) of this Regulation unless, not

less than 7 clear days before the court hearing, he has served on the prosecutor a notice in writing giving notice that he proposes to rely on that defence.

REG 17

17. Where an offence under these Regulations is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body or any person who was purporting to act in any such capacity, he, as well as the body, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

REG 18

18. An offence under these Regulations may be prosecuted by the Minister or by a health board in whose functional area the offence was committed.

REG 19

19. These Regulations are without prejudice to the provisions of Part III of the Health (Antioxidant in Food) Regulations, 1973 (S.I. No. 148 of 1973), or Part III of the Health (Preservatives in Food) Regulations, 1981 (S.I. No. 337 of 1981).

GIVEN under my Official Seal, this 1st day of July, 1982.

DESMOND O'MALLEY

. Minister for Trade, Commerce and Tourism.

EXPLANATORY NOTE.

The purpose of these Regulations is to give effect to Council Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer. Regulations 1 to 4 come into operation with immediate effect and the remainder will come into operation on a date to be determined by the Minister by Regulations under the European Communities Act, 1972. The immediate effect of the Regulations will be that food which complies with the provisions of the Council Directive and with other relevant requirements may be freely marketed.

When the remaining Regulations come into effect, they will:

(a) require prepackaged foods, subject to certain exceptions, to be marked or labelled with:—

- (i) the name of the food,
- (ii) a list of ingredients,

- (iii) the net quantity,
 - (iv) the date of minimum durability,
 - (v) any special storage conditions,
 - (vi) the name and address of the manufacturer, packer or seller,
 - (vii) particulars of the place of origin and instructions for use, where the absence of this information would mislead, in accordance with the detailed provisions of the Directive and the Regulations, and
- (b) make separate provisions for the labelling of food which is not prepacked and certain similar foods, fancy confectionery products, food packed in small packages and food sold in catering establishments.

These Regulations should be read together with the Council Directive.
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