



THE FOOD ACT 1996

THE ICE CREAM REGULATIONS 1997

Approved by Tynwald

20th May 1997

Coming into operation

1st June 1997

In exercise of the powers conferred on the Department of Local Government and the Environment by sections 4(3), 17 and 41(6) of, and paragraph 4 of Schedule 3 to, the Food Act 1996(a) and of all other enabling powers, and after consulting such organisations as appear to it to be representative of interests substantially thereby affected, the following Regulations are hereby made:—

Citation and commencement

1. These Regulations may be cited as the Ice Cream Regulations 1997 and, subject to section 41(7) of the Act, shall come into operation on the 1st June 1997.

Interpretation

2. (1) In these Regulations —

"the Act" means the Food Act 1996;

"catering establishment" means a restaurant, canteen, club, public house, school, hospital or other 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 for immediate consumption;

"human consumption" includes use in the preparation of food for human consumption;

(a) 1996 c.8

"ice-cream" means food which may be so described without contravention of the conditions governing the use of that description contained in regulation 3;

"sell" includes offer, expose, advertise or have in possession for sale;

"sugar" means any soluble carbohydrate sweetening matter;

"ultimate consumer" means any person who buys otherwise than for the purpose of resale or for the purposes of a catering establishment or a manufacturing business;

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

(2) For the purposes of these Regulations the supply of food, otherwise than by sale, at, in or from a place where food is supplied in the course of a business shall be deemed to be a sale of that food, and references to a purchaser shall be construed accordingly.

(3) All proportions mentioned in these Regulations are proportions calculated by weight.

Misleading descriptions

3. The descriptions specified in column 1 of the following table shall not be used in the labelling, marking or advertising of a food, except in accordance with the appropriate conditions set out in column 2 of the table —

ice cream

shall not be applied to any food other than the frozen product containing not less than 5 per cent. fat and not less than 7½ per cent. milk solids other than fat, and which is obtained by subjecting an emulsion of fat, milk solids and sugar or other sweeteners, with or without the addition of other substances, to heat treatment and either to subsequent freezing or evaporation, addition of water and subsequent freezing

dairy ice cream

shall not be applied to any food other than one which fulfils the conditions relating to application of the description "ice cream" to a food, (provided that the fat in respect of which a minimum of 5 per cent is specified shall here consist exclusively of milk fat) and which contains no fat

other than milk fat or any fat present
by reason of the use as an ingredient
of such ice cream of any egg,
flavouring, emulsifier or stabiliser

Prohibition of misleading presentation

4. Without prejudice to regulation 3, no ice cream, and no food described as "ice", "ices" or "ice cream" (whether alone or in conjunction with any other description), which is ready for delivery to the ultimate consumer or to a catering establishment shall be so labelled or marked as to mislead a purchaser to a material degree as to the nature, substance or quality of the ice cream or food.

General labelling requirement

5. All ice cream which is ready for delivery to the ultimate consumer or to a catering establishment, other than ice cream which is not prepacked and is sold at a catering establishment for immediate consumption, shall be marked or labelled with —

- (a) the words "ice cream" (whether alone or in combination with another description);
- (b) a list of ingredients, headed by an appropriate heading consisting of or including the word "ingredients", in descending order of weight determined at the time of their use in the preparation of the ice cream
- (c) any special storage conditions or conditions of use;
- (d) either —
 - (i) the name and address of the manufacturer, if the ice cream is manufactured in the Isle of Man, or —
 - (ii) the name or business name and an address or registered office of the manufacturer or packer, or of a seller established within the Isle of Man or any member State of the European Community;
- (e) particulars of the place of origin of the ice cream, if failure to give such particulars might mislead a purchaser to a material degree as to the true origin of the ice cream.

Bacteriological standards

6. No person shall sell any ice-cream for human consumption unless it meets the standards as to bacteriological count and the absence of bacillus coli set out in columns 1 and 2 of the following table, using the method of analysis and testing specified in relation thereto in column 3 of the table:

<u>Type of micro-organism</u>	<u>Standard (ml, g)</u>	<u>Method of analysis and testing</u>
<i>Listeria monocytogenes</i>	Absence in 1g	ISO 10560: 1993; Milk and milk products — Detection of <i>Listeria monocytogenes</i>
<i>Salmonella</i> spp	Absence in 25g where $n = 5, c = 0$	ISO 6579: 1993; Microbiology General guidance on methods for the detection of <i>Salmonella</i> and IDF Standard 93A: 1985; sample preparation
<i>Staphylococcus aureus</i>	$n = 5, c = 2,$ $m = 10, M = 100$	Provisional IDF Standard 145: 1990; Milk and milk-based products. Enumeration of <i>Staphylococcus aureus</i> . Colony count technique at 37°C.

For the purpose of this table —

n = number of sample units comprising the sample;

c = number of sample units where the bacterial count may be between m and M , the sample being considered acceptable if the bacterial count of the other sample units is m or less;

m = threshold value for the number of bacteria; the result is considered satisfactory if the number of bacteria in all sample units does not exceed m ;

M = maximum value for the number of bacteria; the result is considered unsatisfactory if the number of bacteria in one or more sample units is M or more.

Enforcement

7. (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 and liable on summary conviction to a fine not exceeding £5,000.

(2) The Department of Local Government and the Environment shall enforce and execute these Regulations.

Exemption for exports

8. In any proceedings for an offence under the foregoing provisions of 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 from the Island.

Revocations

9. (1) The following provisions are revoked —
- (a) sections 6(1), (3) and (4), 7 and 8 of the Sale of Ice Cream Act 1939(b) (as continued in force by paragraph 4 of Schedule 3 to the Act);
 - (b) the Sale of Ice Cream Regulations 1979(c);
 - (b) the Sale of Ice Cream (Amendment) Regulations 1985(d).

MADE

24th April

1997



Minister for Local Government and the Environment

(b) XV p.216 (c) GC 24/79 (d) GC 333/85

EXPLANATORY NOTE

(This note is not part of the Regulations.)

The Regulations impose new requirements for the composition, description, labelling, marking and advertisement of ice-cream. Compositional requirements for food described as "ice-cream" and "dairy ice-cream" are introduced, corresponding to those in force in England and Wales (reg.3). A general prohibition of misleading descriptions of ice cream and similar products is imposed (reg.4), and new labelling requirements (reg.5) and bacteriological standards (reg.6) are introduced, corresponding to provisions in force in England and Wales.



**Isle of Man
Government**

Department of Local Government and the Environment

Rheynn Reiltys Ynnydagh as y Chymmyltaght

EXPLANATORY NOTE TO MEMBERS IN TYNWALD

MAY 1997

The Ice Cream Regulations 1997

The existing Sale of Ice Cream Regulations 1979 provide that ice cream sold in the Isle of Man should have:-

- (a) a milk fat content of not less than 10% by weight,
- and
- (b) solids including milk fat of not less than 32% by weight.

During litigation against the Department of Local Government and the Environment by Manx Ices Ltd, the Department, through its Advocate, gave an undertaking to the Court, in October 1995, that it would:-

"use its best endeavours to secure amendment of the Sale of Ice Cream Regulations 1979 (as amended) to ensure manufacturers of ice cream within the Isle of Man can sell ice cream in the Isle of Man of the same compositional standard as ice cream sold by importers of ice cream into the Isle of Man".

As a result extensive consultations have been undertaken with the Industry, interested parties and other Government Departments, to provide appropriate new regulations.

A first draft of the Regulations was issued on 7 February 1996 and following comments received these were redrafted and sent for further consultation on 29 April 1996. After due consideration of the further comments the draft was issued on 23 July 1996.

However because of a number of delays the draft regulations were not sent for approval. In the meantime the new Food Act 1996 was approved and the Food & Drugs Act 1963 and Sale of Ice Cream Act 1950 were revoked.

Following the implementation of the Food Act 1996 the draft regulations had to be redrafted and once again issued for consultation during March 1997. The new draft did not materially change the content of the regulations as previously submitted.

The proposed Regulations will allow local producers, wholesalers and retailers to import or manufacture and subsequently sell ice cream with a compositional standard similar to that manufactured and sold in the UK.

The Regulations do not prevent local producers manufacturing ice cream with a compositional standard similar to or better than that which is currently being sold.

The Regulations provide new requirements for the description, labelling, marking and advertisement of ice cream, and provide compositional standards for "ice cream" and "dairy ice cream" similar to those in force in the UK.

The Regulations also impose new bacteriological standards similar to those required by EC Directive 92/46.

Copies of the comments received during consultation and a list of those persons and organisations who were consulted are available upon request from the Department's Food Control Section (Tel: 685894).