

Subsidiary Legislation made under ss. 6, 8 and 58.

## **Cocoa and Chocolate Products Regulations, 1987**

### **LN.1987/053**

|                      | <i>Commencement</i>         | <b>1.8.1987</b>   |
|----------------------|-----------------------------|-------------------|
| Amending enactments  | Relevant current provisions | Commencement date |
| LN. 1990/055 r. 2(1) |                             | 1.7.1990          |

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**SCHEDULE 1.**

**SCHEDULE 2.**

**Title and commencement.**

- 1.(1) These regulations may be cited as the Cocoa and Chocolate Products Regulations, 1987.
- (2) These regulations shall come into operation on the 1st day of August, 1987.

**Interpretation.**

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

"appropriate designation", as respects any food, means a name or description or a name and description sufficiently specific, in each case, to indicate to an intending purchaser the true nature of the food to which it is applied;

"chocolate product" means any food specified in column 2 of Part II of Schedule 1 as read with paragraphs 1, 2 and 3 of that Part, but does not include any product specially prepared for diabetics or to which a slimming claim is lawfully applied and which has been specially prepared in connection with that claim by the addition of any ingredient other than an edible substance;

"cocoa product" means any food specified in column 2 of Part I of Schedule 1 as read with paragraph 1 of that Part, but does not include any product specially prepared for diabetics or to which a slimming claim is lawfully applied and which has been specially prepared in connection with that claim by addition of any ingredient other than an edible substance;

"cocoa solids" means the constituents of cocoa nib, whether or not containing minor proportions of shell or germ;

"the Community" means the European Economic Community;

"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 hand, but does not include any crimp case used to support the base or the base and sides of any chocolate product.

"edible substance" means any substance suitable for use as food, which is wholly a natural product, whether or not that substance has been subjected to any process or treatment, or any vitamin or mineral, or any flavouring substance which does not impart the flavour of chocolate or milk fat, but does not include-

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- (a) any food specified in column 2 of Part I of Schedule 1 as read with paragraph 1 of that Part.
- (b) any food specified in column 2 of Part II of Schedule 1 as read with paragraphs 1,2 and 3 of that Part, or
- (c) any permitted acid, permitted base or permitted emulsifier of a description specified in column 2 or paragraph 1 of Part I of Schedule 2;

"extracted cocoa butter" means press cocoa butter, expeller cocoa butter, refined cocoa butter or any combination of two or more of these cocoa products.'

"expeller process" means a process using pressure resulting from the shearing action of a press;

"fancy chocolate product" includes any chocolate product in the form of figurines, cigarettes or eggs or enclosed in a seasonal selection pack;

"flavouring substance" means any substance which is capable of imparting, and is generally used to impart, taste or odour, or both, to food;

"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;

"germ" means the embryo of the cocoa bean;

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

"ice-creams" has the meaning assigned to it by the Ice Cream Regulations 1987;

"instant preparation", in relation to any cocoa product, means a product capable of rapid dispersal in milk or water;

"milk" means cows' milk;

"milk solids" means all the constituents of milk other than water and fat, in their natural proportions, and milk fat;

"non-fat cocoa solids" means the constituents of cocoa solids other than permitted cocoa butter and cocoa fat;

"the Act" means the Food and Drugs Act;

"permitted acid" means any acid in so far as its use is permitted by the Miscellaneous Additives in Food Regulations 1987;

"permitted base" means any base in so far as its use is permitted by the Miscellaneous Additives in Food Regulations 1987;

"permitted cocoa butter" means fat in parts of cocoa beans having a level of unsaponifiable matter not exceeding 0.5% determined using petroleum ether and an acidity of not more than 1.75% expressed as oleic acid, with or without, in relation to any chocolate product, any extracted cocoa butter;

"permitted emulsifier" means any emulsifier in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations 1990;

"pre-packed" means made up in advance in or on a container ready for sale by retail and where any food made up in or on a container is found on any premises where such food is so made up or is kept or stored for sale, that food shall be deemed to be pre-packed unless the contrary is proved, and it shall not be sufficient proof of the contrary to show that the food had not been labelled in accordance with the provisions of these regulations.

"reserved description", as respects any cocoa product or chocolate product, means a description specified or referred to in relation to that product in column 1 of Part I or II or Schedule 1, and the use of any such description in these regulations shall be construed as meaning any cocoa product or chocolate product specified in relation to that description in column 2, as read with paragraph 1, of Part I of Schedule 1 or column 2, as read with paragraphs 1, 2 and 3 of Part II of that Schedule;

"seasonal selection pack" means a pack wholly or mainly enclosing, in an outer container decorated with seasonal designs, a selection of chocolate products individually pre-packed and labelled for sale by retail in accordance with 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, does not include selling to a caterer for the purposes of his catering business, or to a manufacturer for the purposes of his manufacturing business; and 'sale by retail' and 'sold by retail' shall be construed accordingly

"shell" means the outer covering of the cocoa bean;

"slimming claim", as respects any food, means a claim, whether made expressly or by implication, that the food is an aid to slimming or weight control or weight reduction or has reduced or low energy value;

"spirits" has the meaning assigned to it the Imports and Exports Act.

"swiss roll" means a food consisting of a layer of sponge cake spread with preserve, fruit spread, cream, imitation cream or buttercream or with preserve or fruit spread and cream, imitation cream or buttercream and rolled into a cylindrical shape, whether or not flavoured with any flavouring substance;

"winnowing" means the separation by mechanical processes and air classification of cocoa nib from shell-

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

(2) Any reference 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.

(3) All proportions mentioned in these regulations to a label borne proportions calculated by weight, and unless the context otherwise requires, are calculated on the total weight of the product.

(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 references to purchasing and purchasers 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.

(6) Any reference in these regulations to a numbered regulation or schedule shall, unless the reference is to a regulation of or schedule to specified regulations, be construed as a reference to the regulation or schedule bearing that number in these regulations.

#### **Exemptions.**

3. The following provisions of these regulations shall not apply to any cocoa product or chocolate product sold, consigned or delivered for exportation to any place outside Gibraltar.

**General restrictions on use of reserved description.**

4. No person shall-

- (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 a party to the publication of, any advertisement for food, which hears or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless-
  - (i) such food is a cocoa product or chocolate product to which the reserved description relates, or
  - (ii) 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 an ingredient of that food, or
  - (iii) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food either is not or does not contain, a cocoa product or chocolate product-

Provided that the words 'choc ice' or 'choc bar' may be used in relation to a compound food intended for individual consumption consisting of ice cream which has a coating resembling a chocolate product and containing not less than 2.5% dry non-fat cocoa solids, and the words 'choc roll' may be used in relation to a compound food consisting of swiss roll which has such a coating, if in each case the words are accompanied by an appropriate designation of the coating in such a manner that the coating cannot be confused with any cocoa product or chocolate product.

**Labelling and description of cocoa and chocolate products.**

5.(1) No person shall sell or consign or deliver pursuant to a sale I any cocoa product or chocolate product unless there is applied to it a true statement in compliance with this regulation.

- (2) The said statement shall specify-

- (a) a reserved description which, subject to regulation 6, shall be accompanied-
- (i) in the case of the reserved description 'filled chocolate' by a description of the filling;
  - (ii) in the case of the reserved description 'a chocolate' or 'chocolates', where the chocolate product contains a filling, by a description of the filling or an indication that the product is a mixture or an assortment;
- (b) for filled chocolate or chocolates, containing plain chocolate which is not chocolate or couverture chocolate, or giandula nut chocolate, milk chocolate, gianduja nut milk chocolate, cream chocolate, skimmed milk chocolate, white chocolate or a combination of two or more such chocolate products, a reserved description of each such chocolate product, qualifying the reserved description referred to in subparagraph (a) hereof.
- (3) The said statement shall, in relation to any product or chocolate product referred to in any of the following sub-paragraphs, also include any declaration specified in that sub-paragraph for that product and any such declaration specified in sub-paragraph (d), (e), (f) or (h) shall accompany the reserved description of that product:
- (a) for any cocoa product or chocolate product to which is applied the reserved description 'sweetened cocoa', 'sweetened cocoa powder', 'sweetened fat-reduced cocoa', 'sweetened fat-reduced cocoa powder', 'drinking chocolate', 'fat-reduced drinking chocolate', 'chocolate', 'plain chocolate', 'milk chocolate', 'cream chocolate' or 'skimmed milk chocolate', the declaration 'cocoa solids X% minimum' the declaration being completed by inserting at X the minimum total dry cocoa solids content;
  - (b) for any chocolate product to which is applied the reserved description 'milk chocolate' and which complies with-
    - (i) paragraph (a) only of the definition specified in Part II of Schedule 1 in relation to that reserved description, the declaration 'milk solids 14% minimum'
    - (ii) paragraph (b) only of the said definition, the declaration 'milk solids 20% minimum':
    - (iii) paragraphs (a) and (h) of the said definition, either of the declarations specified in this sub paragraph.



- (c) for any cocoa product or chocolate product to which is applied the reserved description 'sweetened cocoa', 'sweetened cocoa powder', 'sweetened fat-reduced cocoa', 'sweetened fat-reduced cocoa powder', 'drinking chocolate', 'fat-reduced drinking chocolate', 'chocolate', 'plain chocolate', 'chocolate vermicelli', 'chocolate flakes', 'gianduja nut chocolate', 'couverture chocolate', 'milk chocolate', 'milk chocolate vermicelli', 'milk chocolate flakes', 'gianduja nut milk chocolate', 'couverture milk chocolate', 'white chocolate', 'cream chocolate' or 'skimmed milk chocolate' and which contains more than 5% dextrose in place of sucrose, the declaration 'containing dextrose';
- (d) for any cocoa product or chocolate product to which is applied the reserved description 'cocoa mass', 'couverture chocolate' or 'milk couverture chocolate' and which contains flavouring substance, such of the following declarations, as may be applicable, that is to say-
- (i) where ethyl vanillin is used, the declaration 'with ethyl vanillin' or 'ethyl vanillin flavour';
  - (ii) where any other flavouring substance is used, the declaration 'X taste' or 'X flavour', the declaration being completed by inserting at X the description of such flavouring substance, so however that if the flavouring substance is derived wholly or mainly from its natural source, there may be substituted for such declaration either a reference to that natural source or the declaration 'X flavoured', the declaration being completed by inserting at X the description of such source;
- (e) for any cocoa product or chocolate product to which is applied the reserved description 'cocoa powder', 'fat-reduced cocoa', 'fat-reduced cocoa powder', 'sweetened cocoa', 'sweetened cocoa powder', 'sweetened fat-reduced cocoa', 'sweetened fat-reduced cocoa powder', 'drinking chocolate', 'fat-reduced drinking chocolate', 'chocolate', 'plain chocolate', 'chocolate vermicelli', 'chocolate flakes', 'gianduja nut chocolate', 'milk chocolate', 'milk chocolate vermicelli', 'milk chocolate flakes', 'gianduja nut milk chocolate', 'white chocolate', 'cream chocolate', or 'skimmed milk chocolate' and which contains a flavouring substance the taste or odour of which is predominant, such of the following declarations, as may be applicable, that is to say
- (i) where ethyl vanillin is used, the declaration 'with ethyl vanillin' or 'ethyl vanillin flavour';
  - (ii) where any other flavouring substance is used, the declaration 'X taste' or 'X flavour' the declaration being completed by inserting at X the description of such flavouring substance, so however that if the flavouring substance

is derived wholly or mainly from its natural source, there may be substituted for such declaration either a reference to that natural source for the declaration 'X flavoured', the declaration being completed by inserting at X the description of such source:

- (f) for any cocoa product to which is applied the reserved description 'cocoa beans', 'cocoa dust', 'cocoa fines', 'cocoa mass', 'cocoa press cake', 'fat-reduced cocoa press cake', 'expeller cocoa press cake', 'cocoa', 'cocoa powder', 'fat-reduced cocoa', 'fat-reduced cocoa powder', 'sweetened cocoa', 'sweetened cocoa powder', 'sweetened fat reduced cocoa', 'sweetened fat-reduced cocoa powder', 'drinking chocolate', 'fat-reduced drinking chocolate', 'press cocoa butter', 'cocoa butter', 'expeller cocoa butter', 'refined cocoa butter' or 'cocoa fat' and which contains added ammonium phosphatides or lecithins, a declaration of the percentage thereof;
- (g) for any cocoa product in the form of an instant preparation to which is applied the reserved description 'cocoa', 'cocoa powder', 'fat-reduced cocoa', 'fat-reduced cocoa powder', 'sweetened cocoa', 'sweetened cocoa powder', 'sweetened fat-reduced cocoa', 'sweetened fat-reduced cocoa powder', 'drinking chocolate' or 'fat-reduced drinking chocolate' and which contains added ammonium phosphatides or lecithins, a declaration that the product is an instant preparation;
- (h) for any chocolate product to which is applied the reserved description 'chocolate', 'plain chocolate', 'couverture chocolate', 'milk chocolate', 'couverture milk chocolate', 'white chocolate', 'cream chocolate' or 'skimmed milk chocolate', subject to regulation 7, a declaration of any edible substances present other than milk or milk products or vegetable fat;
- (j) for any chocolate product to which is applied the reserved description 'chocolate', 'plain chocolate', 'couverture chocolate', 'milk chocolate', 'couverture milk chocolate', 'white chocolate', 'cream chocolate', or 'skimmed milk chocolate' and which contains any vegetable fat or preparation of vegetable fat not derived from cocoa beans or parts of cocoa beans, the declaration 'contains vegetable fat', so however that this declaration may be omitted if a full list of ingredients, in descending order by weight appears in the said statement;
- (k) for any filled chocolate or chocolates to which is applied, in relation to any chocolate product contained therein, the reserved description 'plain chocolate', 'gianduja nut chocolate', 'milk chocolate', 'gianduja nut milk chocolate', 'couverture milk chocolate', 'white chocolate', 'cream chocolate', or 'skimmed milk chocolate', any declaration prescribed by paragraph (3)(b), (c), (e), (h) or (j) of this regulation for a chocolate product to which such a description is applied;

- (1) for any filled chocolate or chocolates to which is applied no such description as is specified in paragraph (3)(k) of this regulation, any declaration prescribed by paragraph (3)(c), (e), (h) or (j) of this regulation for a chocolate product to which the reserved description 'chocolate' is applied;
- (4) The said statement shall also specify the name or trade name and the address or registered office of the manufacturer or packer of the cocoa product or chocolate product, or of a seller thereof established within the Community.
- (5) Subject to paragraphs (6) and (7) of this regulation, the said statement shall appear
- (a) in the case of a sale otherwise than by retail or a consignment or delivery pursuant to such a sale of any cocoa product or chocolate product in a container, on a label marked on, or securely attached to, the container;
  - (b) in the case of a sale otherwise than by retail or a consignment or delivery pursuant to such a sale of any cocoa product or chocolate product not in a container, in a document accompanying the product;
  - (c) in the case of a sale by retail or a consignment or delivery pursuant to such a sale of any pre-packed cocoa product or pre-packed chocolate product other than a fancy chocolate product, on a label marked on, or securely attached to, the container;
  - (d) in the case of a sale by retail or a consignment or delivery pursuant to such a sale of any pre-packed fancy chocolate product, either on a label marked on or securely attached to the container or on a ticket displayed on or in the immediate proximity to the product;
  - (e) in the case of a sale by retail or a consignment or delivery pursuant to such a sale of any cocoa product or chocolate product which is not pre -packed, on a ticket displayed on or in immediate proximity to the product.
- (6) Notwithstanding the provisions of paragraph 5(a) of this regulation, in the case of a sale otherwise than by retail or a consignment or delivery pursuant to such a sale in a container of a net weight of not less than ten kilogrammes-
- (a) of any cocoa product to which is applied the reserved description 'cocoa beans', 'cocoa nib', 'cocoa dust', 'cocoa fines', 'cocoa mass', 'cocoa press cake', 'fat-reduced cocoa press cake' or 'expeller cocoa press cake', the said statement may, as an alternative, be contained in a document accompanying the product;

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- (b) of any other cocoa product or of any chocolate product, that part of the said statement which is specified in paragraph (3) of this regulation may, as an alternative, be contained in a document accompanying the product.

(7) Where any chocolate product to which paragraph (5)(d) or (e) of this regulation applies is sold without having been previously exposed for sale there shall be deemed to be sufficient compliance with this regulation if the purchaser is notified at or before the delivery of the product to him of the contents of the statement required by this regulation to be applied to the product.

#### **Labelling and advertising of filled chocolate.**

6. No person shall-

- (a) give with any filled chocolate sold by him any label, whether attached to or borne on the container or not, display with any filled chocolate offered or exposed by him for sale any ticket or notice, or

(b) publish or be a party to the publication of, any advertisement for filled chocolate, which-

- (i) describes or depicts the filled chocolate directly or indirectly either in words or by means of any pictorial device as liqueur chocolate or chocolate liqueur or as containing a liquid filling comprising any liqueur or spirits or fortified wine, whether any of the said descriptions is qualified or not, unless such filled chocolate contains a liquid filling comprising a significant quantity of such liqueur, spirits or fortified wine, as the case may be;
- (ii) bears or includes in the description or name of the filling, the word 'butter', or 'cream', or any word derived from or substantially similar to either of those words, in a manner which suggests the presence of butter or, as the case may be, cream in the filling unless that filling contains not less than 4% of milk fat.

#### **Declaration of the presence of certain ingredients in chocolate products.**

7.(1) Subject to the provisions of paragraph (2) of this regulation, no person shall-

- (a) give with any chocolate product sold by him any label, whether attached to or borne on the container or not, or display with any chocolate product offered or exposed by him for sale any ticket or notice, or

- (b) publish, or be a party to the publication of any advertisement for any chocolate product,

which bears or includes a declaration of the presence of-

- (i) milk or milk products unless the chocolate product is milk chocolate, couverture milk chocolate, white chocolate, cream chocolate or skimmed milk chocolate;
- (ii) spirits unless the amount of the spirits is not less than 1% of the chocolate product;
- (iii) coffee unless the amount of coffee solids, calculated on the dry matter, is not less than 1% of the chocolate product;
- (iv) any other edible substance, other than any flavouring substance or any vegetable fat or preparation of vegetable fat not derived from cocoa beans or parts of cocoa beans, which is not in clearly visible and discrete pieces unless the amount of that edible substance is not less than 5% of the chocolate product, so however that in the case of filled chocolate the amount shall be calculated as a percentage of the chocolate product without the filling.

(2) The reference in paragraph (1) of this regulation to a declaration shall not include a reference to-

- (a) any declaration which appears as part of a full list of ingredients in descending order by weight;
- (b) any declaration which relates to the filling of filled chocolate.

**Dark couverture chocolate.**

8. No person shall-

- (a) give with any chocolate product to which the reserved description 'couverture chocolate' is applied and which is sold by him any label, whether attached to or borne on the container or not, or display with any such chocolate product which is offered or exposed by him for sale any tickets or notice, or
- (b) publish, or be a party to the publication of, any advertisement for any chocolate product to which the reserved description 'couverture chocolate' is applied,

which bears or includes the word 'dark' qualifying that reserved description, unless the chocolate product contains not less than 16% dry non-fat cocoa solids calculated after deducting the weight of any substance which, by virtue of regulation 15 and Part II of Schedule 2, may be present in such a chocolate product

**Declarations relating to quality of certain chocolate products. .**

9. No person shall-

- (a) give with any chocolate product to which the reserved description 'chocolate' or 'milk chocolate' is applied and which is sold by him any label whether attached to or borne on the container or not, or display with any such chocolate product which is offered or exposed by him for sale any ticket or notice, or
- (b) publish, or be a party to the publication of, any advertisement for any chocolate product to which the reserved description 'chocolate' or 'milk chocolate' is applied,

which bears or includes any declaration or description relating to quality unless-

- (i) in the case of a chocolate to which the reserved description 'chocolate' is applied, the chocolate product contains not less than 43% total dry cocoa solids including not less than 26% permitted cocoa butter; or
- (ii) in the case of a chocolate product to which the reserved description 'milk chocolate' is applied, the chocolate product contains not more than 50% sucrose, not less than 30% total dry cocoa solids and not less than 18% milk solids including not less than 45% milk fat.

**References to natural sources of flavouring substances.**

10. No person shall-

- (a) give with any cocoa product or chocolate product containing a flavouring substance and which is sold by him any label, whether attached to or borne on the container or not, or display with any such cocoa product or chocolate product offered or exposed by him for sale any ticket or notice, or
- (b) publish, or be a party to the publication of, any advertisement for any cocoa product or chocolate product containing a flavouring substance,

which bears or includes any reference, direct or indirect whether in words or by means of any pictorial device, to a natural source, unless the flavouring substance is derived wholly or mainly from that source.

**Manner of marking or labelling.**

11.(1) Any statement required by regulation 5 to appear on a label marked on, or securely attached to the container of any cocoa product or chocolate product or on a ticket displayed on or in immediate proximity to the product-

- (a) shall be clear, legible and indelible;
- (b) shall be in a conspicuous position on the label marked on, or securely attached to, the container or, as the case may be, on the ticket on, or in immediate proximity to, the cocoa product or chocolate product to which the ticket relates in such a manner that in either case it will, be readily discernible and easily read by an intending purchaser or consumer under normal conditions of purchase or use;
- (c) shall not be interrupted by other written or pictorial matter where such interruption might mislead the purchaser or consumer as to the nature of the cocoa product or chocolate product;
- (d) shall not be in any way hidden or obscured or reduced in conspicuousness by any other matter, whether pictorial or not, appearing on the label or ticket.

(2) The height of the letters in any statement referred to in paragraph (1) of this regulation shall be such as is not calculated by any undue or insufficient prominence to mislead as to the nature, substance or quality of the cocoa product or chocolate product to which that statement relates.

(3) If any cocoa product or chocolate product is packaged in more than one container, any label which by virtue of any of these regulations is required to be marked on, or securely attached to, the container or shall be readily discernible and easily read through, or notwithstanding, the outermost container.

**Instant preparations for sale otherwise than by retail.**

12. No person shall sell otherwise than by retail, or consign or deliver pursuant to a sale otherwise than by retail any cocoa product in the form of an instant preparation to which is applied the reserved description 'cocoa', 'cocoa powder', 'fat-reduced cocoa', 'fat-reduced cocoa powder', 'sweetened cocoa', 'sweetened cocoa powder', 'sweetened fat-reduced cocoa', 'sweetened fat-reduced cocoa powder', 'drinking chocolate' or 'fat-reduced drinking chocolate'

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and which contain added ammonium phosphatides unless a document accompanying the product contains the declaration referred to in regulation 5(3)(g).

**Advertisement of cocoa and chocolate products for sale from vending machines.**

13.(1) Subject to paragraph (2) of this regulation, no person shall sell in or from any vending machine any cocoa product or chocolate product in a container unless a reserved description relating to that cocoa product or chocolate product appears in clear lettering in a prominent position on the front of that machine.

(2) This regulation shall not apply where a reserved description relating to that chocolate product appears on a label in that container or a facsimile thereof being a label which complies with the requirements of these regulations as respects that cocoa product or chocolate product and, to the extent that it bears such a reserved description, is conspicuous and legible to an intending purchaser on or through the outside of the vending machine.

**Cocoa beans.**

14. No person shall use as an ingredient in the preparation of any cocoa product or chocolate product, cocoa beans which are not sound, wholesome and in marketable condition.

**Permitted additional ingredients in cocoa and chocolate products.**

15. No person shall sell, consign or deliver any cocoa product or chocolate product which has in it or on it any added ingredient:

Provided that-

- (a) any cocoa product or chocolate product to which is applied a reserved description specified in column 1 of Part I of Schedule 2 may contain any permitted acid, permitted base or permitted emulsifier of the description and in the proportion specified in relation thereto in columns 2 and 3 respectively, as read with paragraphs 1 and 2, of that Part of that Schedule;
- (b) any filled chocolate or chocolates to which is applied, in relation to any chocolate product contained therein, the reserved description 'plain chocolate', 'gianduja nut chocolate', 'milk chocolate', 'gianduja nut milk chocolate', 'couverture milk chocolate', 'white chocolate', 'cream chocolate', or 'skimmed milk chocolate' may contain any permitted emulsifier of the description specified for, in the amount appropriate to the quantity of, that chocolate product in accordance with paragraph (a) of this proviso;



- (c) any filled chocolate or chocolates to which is applied no such description as is specified in paragraph (b) of this proviso may contain any permitted emulsifier of the description specified for, in the amount appropriate to the quantity of, a chocolate product to which the reserved description 'chocolate' is applied, in accordance with paragraph (a) of this proviso;
- (d) any cocoa product or chocolate product to which is applied a reserved description specified in column 1 of Part II of Schedule 2 may have in it or on it any edible substance of the description specified in the proportion specified in relation thereto in columns 2 and 3 respectively as read with paragraph 1 of that Part of that Schedule;
- (e) any filled chocolate or chocolates to which is applied, in relation to any chocolate product therein, the reserved description 'plain chocolate', 'gianduja nut chocolate', 'milk chocolate', 'gianduja nut milk chocolate', 'couverture milk chocolate', 'white chocolate', 'cream chocolate', or 'skimmed milk chocolate' may contain any edible substance, other than any partial coating or decoration, of the description specified for, in the amount appropriate to the quantity of, that chocolate product in accordance with paragraph (d) of this proviso;
- (f) any filled chocolate or chocolates to which is applied no such description as is specified in paragraph (e) of this proviso may contain any edible substance, other than any partial coating or decoration, of the description specified for, in the amount appropriate to the quantity of, a chocolate product to which the reserved description 'chocolate' is applied, in accordance with paragraph (d) of this proviso;
- (g) any filled chocolate or chocolates may have on it or on them any partial coating or decoration in any proportions not exceeding 10 parts%;
- (h) nothing in this regulation shall prohibit the presence of any ingredient in the filling of filled chocolate or, to the extent that the ingredient is derived from such filling, in that part of the filled chocolate other than the filling.

**Penalties.**

16. 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 £1,000.

**Defences.**

17.(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

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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 cocoa product, chocolate product or other food for an offence against these 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 party to the publication of, the advertisement.

#### **Application of various sections of the Act.**

18. 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.

## SCHEDULE 1

*Part I: Cocoa products and their reserved descriptions*

| Column 1                                      | Column 2   |
|---|--|
| <b>Reserved descriptions</b>                  | <b>Cocoa products</b>  |
| Cocoa bean                                    | The seed of the cocoa tree<br>( <i>Theobroma cocoa L.</i> ) fermented and dried.   |
| Cocoa nib                                     | The cotyledon of roasted or unroasted cocoa beans containing a residue of shell or germ not exceeding 5% calculated on the dry defatted matter and an ash content not exceeding 10% calculated on the dry defatted matter.   |
| Cocoa dust<br>Cocoa fines                     | The mixture of fine particles of cocoa nib and shell collected together as a result of winnowing and containing not less than 20% fat calculated on the dry matter.  |
| Cocoa mass                                    | Cocoa nib, mechanically processed to a paste, which retains the natural fat content of cocoa nib.  |
| Cocoa press cake                              | Cocoa nib or cocoa mass which has been converted by pressure by a mechanical process, to a solid compressed mass and which contains not more than 9% water and not less than 20% permitted cocoa butter calculated on the dry matter.  |
| Fat-reduced cocoa press cake                  | Cocoa press cake containing not less than 8% permitted cocoa butter calculated on the dry matter.  |
| Expeller cocoa press cake                     | Cocoa beans or cocoa dust or both with or without cocoa nib, cocoa mass, cocoa press cake, fat-reduced cocoa press cake or any combination of two or more thereof which has been converted by the expeller process to a solid compressed mass.   |
| Cocoa<br>Cocoa powder                         | The finely ground particles obtained from the mechanical disintegration of cocoa press cake containing not more than 9% water and not less than 20% permitted cocoa butter calculated on the dry matter.   |
| Fat-reduced cocoa<br>Fat-reduced cocoa powder | The finely ground particles obtained from the mechanical disintegration of cocoa press cake or fat-reduced cocoa press cake or cocoa press cake and fat-reduced cocoa press cake containing not more than 9% water and not less than 8% permitted cocoa butter calculated on the dry matter. |
| Column 1                                      | Column 2   |
| Reserved descriptions<br>Sweetened cocoa      | Chocolate products<br>A mixture of cocoa and sucrose containing not less than 32% of cocoa.  |

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|   |   |
|---|---|
| Sweetened cocoa powder  |   |
| Sweetened fat-reduced cocoa<br>Sweetened fat-reduced cocoa powder | A mixture of cocoa and sucrose containing not less than 32% of cocoa.   |
| Drinking chocolate  | A mixture of cocoa and sucrose containing not less than 25% of cocoa.   |
| Fat-reduced drinking chocolate                                    | A mixture of cocoa and sucrose containing not less than 25% of cocoa.   |
| Press cocoa butter<br>Cocoa butter                                | Fat obtained by pressure, from cocoa nib, cocoa mass, cocoa press cake, fat-reduced cocoa press cake, or any combination of two or more thereof:—<br>(a) having been treated by no process other than degumming by filtering, centrifuging and other physical processes used for this purpose and deodorisation by super-heated steam under vacuum and other physical processes used for this purpose: and<br>(b) containing not more than 0.35% unsaponifiable matter determined using petroleum ether and not more than 1.75% acidity expressed as oleic acid.  |
| Expeller cocoa butter   | Fat obtained by the expeller process from cocoa beans or from cocoa beans combined with nib, cocoa mass, cocoa press cake, fat-reduced cocoa press cake, or any combination of two or more thereof:<br>(a) having been treated by no process other than those specified for press cocoa butter; and<br>(b) containing not more than 0.5% unsaponifiable matter determined using petroleum ether and not more than 1.75% acidity expressed as oleic acid.  |
| Refined cocoa butter  | Fat obtained by pressure, the expeller process, solvent extraction or any combination of those processes from cocoa beans, cocoa nib, cocoa dust, cocoa mass, cocoa press cake, fat-reduced cocoa pres cake, expeller cocoa press cake or any combination of two or more thereof with or without the addition of cocoa fat from one of more of these cocoa products:—<br>(a) having been refined through neutralisation by an alkaline solution or similar substance used for this purpose and de-colorisation with one or more of the following substances namely, bentonite, active carbons or similar substances used for this purpose;<br>(b) having been treated by no additional process other than those specified for press cocoa butter; and |

|           |   |
|-----------|---|
|           | (c) containing not more than 0.5% unsaponifiable matter determined using petroleum ether and not more than 1.7% acidity expressed as oleic acid and shell and germ fat in a ratio to fat from the cotyledon not exceeding that existing naturally in cocoa beans. |
| Cocoa fat | Fat, other than extracted cocoa butter, obtained from cocoa beans or parts of cocoa beans   |

1. Any product specified in column 2 of this Part of this Schedule by reference to its sucrose content, in place of an equal amount of sucrose may contain dextrose, fructose, lactose, maltose or any combination of two or more thereof, in each case, in a proportion not exceeding 5% of the total weight of the product.

Provided that where in place of an equal amount of sucrose the product contains only dextrose, that substance may be present in a proportion not exceeding 20% of the total weight of the product.

*Part II: Chocolate products and their reserved descriptions*

| Column 1                                 | Column 2  |
|--|---|
| Reserved descriptions                    | Chocolate products  |
| Chocolate                                | Any product obtained from cocoa nib, cocoa mass, cocoa, fat-reduced cocoa or any combination of two or more thereof and sucrose, with or without the addition of extracted cocoa butter and containing not less than 35% total dry cocoa solids, including not less than 14% dry non-fat cocoa solids and not less than 18% permitted cocoa butter. |
| Plain chocolate                          | Any product complying with the definition specified in this Part of this Schedule in relation to the reserved description 'chocolate' except that it contains not less than 30% total dry cocoa solids, including not less than 12% dry non-fat cocoa solids.   |
| Chocolate vermicelli<br>Chocolate flakes | Any product in the form of granules or flakes complying with the definition specified in this Part of this Schedule in relation to the reserved description 'chocolate' except that it contains not less than 32% total dry cocoa solids, including not less than 12% permitted cocoa butter.   |
| Gianduja nut chocolate                   | Any product complying with the definition specified in this Part of this Schedule in relation to the reserved description 'chocolate' except that—  |

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|-----------------------------|---|
|                             | <p>(a) it contains not less than 32% total dry cocoa solids, including not less than 8% dry non-fat cocoa solids calculated on the weight of the product excluding nuts;</p> <p>(b) it is combined with finely ground hazelnuts comprising not less than 20 and not more than 40% of the product;</p> <p>(c) it may contain almonds, hazelnuts and other nuts either whole or broken, if the total nut content of the product does not exceed 60%;</p> <p>(d) it may contain milk or dry matter produced by the partial or complete dehydration of whole milk or partially or fully skimmed milk if the finished product contains not more than 5% dry milk solids including not more than 1.25% butterfat.</p> |
| Couverture chocolate        | Any product complying with the definition specified in this Part of this Schedule in relation to the reserved description 'chocolate' except that it contains not less than 31% permitted cocoa butter and not less than 2.5% dry non-fat cocoa solids.   |
| Milk chocolate              | Any product obtained from cocoa nib, cocoa mass, cocoa, fat-reduced cocoa or any combination thereof and sucrose, and from milk or milk solids, with or without the addition of extracted cocoa butter and containing:<br>(a) not less than 25% total dry cocoa solids including not less than 2.5% dry non-fat cocoa solids, not less than 14% milk solids including not less than 3.5% milk fat, not more than 55% sucrose and not less than 25% total fat; or<br>(b) not less than 20% total dry cocoa solids including not less than 2.5% dry non-fat cocoa solids, not less than 20% milk solids including not less than 5% milk fat, not more than 55% sucrose and not less than 25% total fat.           |
| Milk chocolate vermicelli   | Any product in the form of granules or flake complying with paragraph (a) of the definition specified in this Part of this Schedule in relation to the reserved description 'milk chocolate' except that it contains not less than 20% total dry cocoa solids, not less than 12% milk solids including not less than 3% milk fat, not more than 66% sucrose and not less than 12% total fat.  |
| Milk Chocolate flakes       |   |
| Gianduja nut milk Chocolate | Any product complying with the definition specified in this Part of this Schedule in relation to the reserved description 'milk chocolate' except that:-<br>(a) it contains not less than 25% total dry cocoa solids and not less than 10% milk solids calculated on the weight of the product excluding nuts;<br>(b) it is combined with finely ground hazelnuts comprising not less than 15 and not more than 40% of the product; and   |

|  |  |
|--|--|
|  | (c) it may contain almonds, hazelnuts and other nuts, either whole or broken, if the total nut content of the product does not exceed 60%.   |
| Couverture milk chocolate  | Any product complying with paragraph (a) of the definition specified in this Part of this Schedule in relation to the reserved description 'milk chocolate' except that it contains not less than 31% total fat.   |
| White chocolate  | Any product, white in appearance and containing no colouring matter, obtained from extracted cocoa butter, sucrose and milk or milk solids and containing not less than 20% permitted cocoa butter, not less than 14% milk solids, including not less than 3.5% milk fat, and not more than 55% sucrose.   |
| Filled chocolate<br>Any description specified in paragraph 4 of this Part of this Schedule | Any product consisting of a filling, other than flour confectionery or biscuits, wholly or partly enclosed in plain chocolate, gianduja nut chocolate, couverture chocolate, milk chocolate, gianduja nut milk chocolate, white chocolate, cream chocolate, skimmed milk chocolate or a combination of two or more thereof which comprises not less than 25% of the product.   |
| A chocolate<br>Chocolates  | Any product normally capable of being consumed in a single mouthful consisting of:-<br>(a) filled chocolate;<br>(b) Plain chocolate, couverture chocolate, gianduja nut chocolate, milk chocolate, gianduja nut milk chocolate, white chocolate, cream chocolate, skimmed milk chocolate or any combination of two or more thereof;<br>(c) a combination of plain chocolate, gianduja nut chocolate, couverture chocolate, milk chocolate, gianduja nut milk chocolate, white chocolate, cream chocolate, skimmed milk chocolate or any combination of two or more thereof with any edible substance or substances so that the parts of the product constituted by chocolate products are, at least in part, clearly visible and comprise not less than 25% of the product; or<br>(d) a mixture of plain chocolate, couverture chocolate, milk chocolate, cream chocolate, skimmed milk chocolate or any combination of two or more thereof with any edible substance or substances, other than flour or starches, so that the chocolate products comprise not less than 25% of the product. |
| Cream chocolate  | Any product obtained from cocoa nib, cocoa mass, cocoa, fat-reduced cocoa or any combination of two or more thereof and sucrose, and from milk or milk solids, with or without the addition of extracted cocoa butter and containing not less than   |

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|------------------------|--|
|                        | 25% total dry cocoa solids, including not less than 2.5% dry non-fat cocoa solids, not less than 7% milk fat, not less than 3 and not more than 14% dry non-fat milk solids, not more than 55% sucrose and not less than 25% total fat.  |
| Skimmed milk chocolate | Any product obtained from cocoa nib, cocoa mass, cocoa, fat-reduced cocoa or any combination of two or more thereof and sucrose, and from milk or milk solids, with or without the addition of extracted cocoa butter and containing not less than 25% total dry cocoa solids, including not less than 2.5% dry non-fat cocoa solids, not less than 3.5% milk fat, not less than 14% dry non-fat milk solids, not more than 55% sucrose and not less than 25% total fat. |

1. Any product specified in column 2 of this Part of this Schedule by reference to its sucrose content, in place of an equal amount of sucrose may contain dextrose, fructose, lactose, maltose or any combination of two or more thereof, in each case in a proportion not exceeding 5% of the total weight of the product:

Provided that where in place of an equal amount of sucrose the product contains only dextrose, that substance may be present in a proportion not exceeding 20% of the total weight of the product.

2. Any reference in this Part of this Schedule to sucrose, fructose, lactose, maltose or dextrose, shall be construed as not including that substance in clearly visible and discrete pieces.

3. Any percentage specified in column 2 of this Part of this Schedule for a component of any product, shall be calculated after deducting the weight of any substance which may be present in that product by virtue of regulation 15 and Schedule 2:

Provided that-

- (a) where any such substance is a component of the product for which a minimum percentage is specified in column 2 and the product is labelled with a declaration of the addition of that substance, there shall be deducted only the weight of that amount of the substance which exceeds that minimum percentage;
- (b) the weight of any partial coating or decoration in or on any filled chocolate or chocolates by virtue of regulation 15 shall not be deducted before calculating the percentage of any other chocolate product therein.

4. Each of the following descriptions shall be a reserved description for filled chocolate, namely 'X filled Y', or 'Y with X filling', or 'Y filled with X', or 'Y with X centre' if such description is



completed by inserting at X a description of the filling and at Y a reserved description of the chocolate product or reserved descriptions of the chocolate products contained therein.

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| Column 1<br>Reserved description of cocoa product or chocolate product   | Column 2<br>Permitted base or permitted emulsifier   | Column 3<br>Except where otherwise stated parts per % not exceeding—   |
|--|--|--|
| Cocoa nib  | Any permitted base   | 5.0 (calculated as potassium carbonate on the weight of the dry defatted matter)   |
| Cocoa bean, cocoa dust, cocoa fines, cocoa mass, cocoa press cake, fat-reduced cocoa press cake, expeller cocoa press cake   | Any permitted base<br><br>Lecithins, ammonium phosphatides or any combination thereof  | 5.0 (calculated as potassium carbonate on the weight of the dry defatted matter)   |
| Press cocoa butter, cocoa butter, expeller cocoa butter, refined cocoa butter, cocoa fat<br><br>Cocoa, cocoa powder, fat reduced cocoa, fat reduced cocoa powder, in each case in relation to a cocoa product other than in the form of an instant preparation | Lecithins, ammonium phosphatides or any combination thereof<br><br>Any permitted base<br><br>Lecithins, ammonium phosphatides or any combination thereof | 0.5 phosphatides<br><br>5.0 (calculated as potassium carbonate on the weight of the dry defatted matter)<br><br>1.0 phosphatides |
| Cocoa, cocoa powder, fat-reduced cocoa, fat-reduced cocoa powder, in each case in relation to a cocoa product in the form of an instant preparation  | Any permitted base   | 5.0 (calculated as potassium carbonate on the weight of the dry defatted matter)<br><br>5.0 phosphatides                         |

|  |  |  |
|--|--|--|
|  | Lecithins and ammonium phosphatides either singly or in combination  |  |
| Drinking chocolate, fat-reduced drinking chocolate, sweetened cocoa, sweetened cocoa powder, sweetened fat-reduced cocoa, sweetened fat-reduced cocoa powder, in each case in relation to a cocoa product other than in the form of an instant preparation       | Lecithins, and ammonium phosphatides   | 1.0 phosphatides                       |
| Drinking chocolate, fat-reduced drinking chocolate, sweetened cocoa, sweetened cocoa powder, sweetened fat-reduced cocoa, sweetened fat-reduced cocoa powder, in each case in relation to a cocoa product in the form of an instant preparation                  | Lecithins, and ammonium phosphatides either singly or in combination   | 5.0 phosphatides                       |
| Chocolate, plain chocolate, gianduja nut chocolate, couverture chocolate, milk chocolate with the declaration "milk solids 14 per cent minimum, gianduja nut milk chocolate, couverture milk chocolate, white chocolate, cream chocolate, skimmed milk chocolate | Lecithins and ammonium phosphatides either singly or in combination<br><br>Polyglycerol esters of polycondensed fatty acids of castor oil<br><br>sorbitan tristerate | 0.5 phosphatides<br><br>0.5<br><br>1.0 |
| Chocolate, plain chocolate, gianduja nut chocolate, couverture chocolate, milk chocolate with the declaration "milk solids 14 per cent minimum, gianduja   | Any combination of two or more of these permitted emulsifiers subject to the maximum percentages specified for those emulsifiers                                     | 1.5                                    |

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| nut milk chocolate, couverture milk chocolate, white chocolate, cream chocolate, skimmed milk chocolate   |   |   |
| Chocolate vermicelli, chocolate flakes, milk chocolate with the declaration "milk solids 20 per cent minimum", milk chocolate vermicelli, milk chocolate flakes | Lecithins, and ammonium phosphatides either singly or in combination<br><br>Polyglycerol esters of polycondensed fatty acids of castor oil<br>Sorbitan tristerate<br>Any combination of two or more of these permitted emulsifiers subject to the maximum percentages specified for those emulsifiers | 1.0 phosphatides<br><br><br><br>0.5<br><br>1.0<br>1.5 |

1. Subject to paragraph 2 hereof, where a permitted base is used in any cocoa product, that product may contain any of the permitted acids, citric acid, tartaric acid, orthophosphoric acid or any combination of two or more thereof in a proportion not exceeding 0.5 parts %.
2. A permitted base or a permitted acid shall not be used in any cocoa product unless the ash content of the resulting product will not exceed 14 parts % of the dry defatted matter.

*Part II: Edible substances permitted as additional ingredients*

| Column 1   | Column 2  | Column 3  |
|--|---|---|
| Reserved description of cocoa product or chocolate product   | Edible substance  | Parts % except where otherwise stated, not exceeding— |
| Chocolate, plain chocolate, milk chocolate, white chocolate, cream chocolate, skimmed milk chocolate | (a) any edible substances (other than flour or starch added as such or any fat or fat preparation not derived exclusively from milk) in clearly visible and discrete pieces; or | 40 and not less than 5                                |

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|--|--|---|
|  | (b) any edible substance (other than flour or starch added as such or sucrose, dextrose, fructose, lactose, maltose or any fat or fat preparation not derived exclusively from milk) not in clearly visible and discrete pieces; or                                    | 30  |
|  | (c) any vegetable fat or preparation of vegetable fat not derived from cocoa vegetable fat not derived from cocoa beans or parts of cocoa beans; or  | 5   |
|  | (d) any partial coating or decoration; or  | 10  |
|  | (e) any combination of one or more of the edible substances specified in paragraph (a) together with one or more of the edible substances specified in paragraphs (b) to (d) of this item subject to the maximum percentages specified for those edible substances; or | 40  |
|  | (f) any combination of two or more of the edible substances specified in paragraphs (b) to (d) of this item subject to the maximum percentages specified for those edible substances   | 30  |
| Cocoa mass, cocoa, cocoa powder, fat-reduced cocoa, fat-reduced cocoa powder, sweetened cocoa, sweetened cocoa powder, sweetened | Any flavouring substance which does not impart the flavour of chocolate or milk fat.   | In accordance with good manufacturing practice. |

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| fat-reduced cocoa,<br>sweetened fat-reduced cocoa<br>powder, drinking chocolate,<br>fat-reduced drinking<br>chocolate, chocolate<br>vermicelli. chocolate flakes,<br>gianduja nut chocolate, milk<br>chocolate vermicelli, milk<br>chocolate flakes, gianduja<br>nut milk chocolate. |  |  |
|--|--|--|

1. In calculating for the purposes of this Part of this Schedule the amount of edible substances in or on any chocolate product to which a reserved description is applied, there shall be deducted the weight of any such substance for which a minimum percentage is prescribed in relation to that description in the definition of the product specified in Part II of Schedule 1:

Provided that where a declaration of the addition of that substance is applied to that product, there shall be deducted only the amount of the substance which does not exceed the minimum percentage.