

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

Coffee and Coffee Products Regulations, 1987

LN.1987/055

		<i>Commencement</i>	1.8.1987
Amending enactments	Relevant current provisions	Commencement date	
LN. 1990/062	rr. 2, 5, 5A, 6, 8, Sch. 1		1.7.1990

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SCHEDULE 1.

SCHEDULE 2.

Title and commencement.

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

Interpretation.

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

“carbohydrate” means any neutral polyhydroxyl alcohol containing carbon, hydrogen and oxygen in which the hydrogen and oxygen occur in the same proportion as in water, but does not include any polysaccharide which is not metabolised by man;

“chicory” means the product, in granular or powder form, which is obtained from the roots of *Chicorium intybus* L., other than the roots of plants used for witloof chicory, and which has been suitably cleaned, dried and roasted;

“chicory extract” means the product in any concentration which is obtained by extraction from roasted chicory using only water as the medium of extraction (excluding any process of hydrolysis involving the addition of an acid or a base) and which may contain quantities of added nutrient oils, fats, sugar and molasses, or any one or more of those substances, in a proportion not exceeding 1%;

“coffee” means the dried seed of the coffee plant whether or not such seed has been roasted or ground or both roasted and ground;

“coffee extract” means the product in any concentration which contains the soluble and aromatic constituents of coffee, and is obtained by extraction from roasted coffee using only water as the medium of extraction (excluding any process of hydrolysis involving the addition of an acid or a base) and which may contain insoluble oils derived from coffee, traces of other insoluble substances derived from coffee or from the water used for extraction

“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;

“designated product” means any food specified in column 2 of Part I,II, III or IV of Schedule I but does not include any product which contains such a food as an ingredient and which is sold, consigned or delivered as a compound product;

“fig” means the dried, roasted and ground fruit of the fig tree;

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“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;

“the Act” means the Food and Drugs Act;

“permitted anti-caking agent” means any anti-caking agent in so far as its use in food is permitted by the Miscellaneous Additives in Food Regulations 1987;

“permitted preservative” means any preservative in so far as its use in food is permitted by the Preservatives in Food Regulations 1987;

“pre-packed” means made up in advance ready for retail sale in or on a container; and on any premises where food of any description is so made up or is kept or stored for sale after being so made up, any food of that description found made up in or on a container shall be deemed to be pre-packed unless the contrary is proved;

“reserved description”, as respects any designated product, means any description specified in relation to that product in column I of Part I, II, III or IV of Schedule 1, and the use of any such description in these regulations shall be construed as meaning the designated product specified in relation to that description in column 2 of that Part;

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

“sell by retail” means sell to a person buying otherwise than for the purpose of re-sale, but 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;

“sugar product” means any carbohydrate sweetening matter except honey;

AND other expressions 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 are proportions calculated by weight and, unless the context otherwise requires, are calculated on the total weight of the product.

(4) For the purpose 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 context otherwise requires, be construed as reference to the regulation or Schedule bearing that number in these regulations.

(7) The note or notes to any reserved description or any specification contained in column 1 or column 2 respectively of Part I, II, III or IV of Schedule I shall be read as an integral part of that reserved description or that specification.

(8) Where a designated product contains the ingredients coffee and chicory, or extracts of those ingredients, or extracts of coffee and fig, the reserved description of the product shall be such that in it the name of the ingredient of which the higher proportion was used in the manufacturing process shall precede the name of the other ingredient.

Exemptions.

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

General restrictions on the use of reserved descriptions.

4.(1) Subject to the provisions of paragraph 2 of this regulation, 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) apply to any food sold by him any statement, or

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- (c) publish, or be a party to the publication of, any advertisement for food which bears, comprises, or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless-
 - (i) such food is the designated 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 only 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 is not and does not contain a designated product.

(2) Nothing in paragraph (1) of this regulation shall prohibit the use of the word 'coffee' to describe a beverage prepared from coffee or from any of the designated products specified in Part II of Schedule 1.

(3) Nothing in paragraph (1) of this regulation shall prohibit the use of the words 'dandelion coffee'-

- (a) to describe a product which consists wholly of roasted dandelion root, or
- (b) as part of the description applied to an extract or essence derived mainly from roasted dandelion root, or
- (c) to describe a beverage prepared from roasted dandelion root or from an extract or essence derived mainly from roasted dandelion root.

Labelling and description of designated products for retail sale.

5.(1) Without prejudice to the provisions of the Food Labelling Regulations 1987 and subject to regulation 6, no person shall sell by retail, or consign or deliver pursuant to a sale by retail any designated product in a container unless that container is correctly marked or labelled with the following particulars-

- (a) subject to paragraph (2) below, a reserved description of the product, which shall by name prescribed by law for that product for the purposes of regulation 7(1) of the Food Labelling Regulation 1987.
- (b) the word 'decaffeinated' in the case of:-

- (i) a designated product specified in Part I of Schedule 1 produced from coffee which has been subjected to a decaffeination process and in which the residual anhydrous caffeine content determined according to the method of analysis referred to in item (1) of Schedule 2 does not exceed 0.10% of its coffee-based dry matter content; or
 - (ii) a designated product specified in Part II or Part IV of Schedule 1 produced from coffee which has been subjected to a decaffeination process and in which the residual anhydrous caffeine content determined according to the method of analysis referred to in item (1) of Schedule 2 does not exceed 0.30% of its coffee-based dry matter content;
- (c) in the case of any of the following designated products, namely, liquid coffee extract, liquid chicory extract, liquid coffee and chicory extract, chicory and coffee essence and liquid coffee and fig extract-
- (i) the declaration 'roasted with sugar', if the product is obtained from the raw material roasted with sugar;
 - (ii) the declaration 'with sugar', 'preserved with sugar', or with added sugar', if the sugar has been added to the raw material after roasting,

the word 'sugar' being replaced in that declaration by the name of any sugar product used instead of sucrose, which name shall be the reserved description of that product as specified in relation thereto in the Specified Sugar Product Regulations 1987 or if the sugar product has no such reserved description, the name of the product which, if the sugar product were itself being sold as a food, would be used, pursuant to the Food Labelling Regulations 1987, as the sale of the food;

- (d) in the case of the following designated products -
- (i) coffee extract paste and liquid coffee extract of mixtures containing these products, a declaration of the minimum coffee-based dry matter content expressed as a percentage;
 - (ii) chicory extract paste and liquid chicory extract or mixtures containing these products, a declaration of the minimum chicory-based dry matter content expressed as a percentage.

(2) In the case of the designated product liquid coffee extract containing more than 25% coffee-based dry matter and of the designated product liquid chicory extract containing more than 45% chicory-based dry matter, the word 'concentrated' may be added to the reserved description.

Labelling and description of designated products for non-retail sale.

5A. Subject to regulation 6, no person shall sell otherwise than by retail, or consign or deliver pursuant to a sale otherwise than by retail, any designated product in a container unless that container is correctly marked or labelled with the following particular~

- (a) a reserved description of the product;
- (b) the name or business name and address of the manufacturer, or packer or of a seller established within the Community;
- (c) a marking by which the batch can be identified;
- (d) in the case of a designated product containing any added permitted anti-caking agent accordance with paragraph (a) of the proviso to regulation 8, the declaration 'for use in vending machines only'.

Manner of marking or labelling.

6.(1) Regulations 32(1) and 34(1) and (2) of the Food Labelling Regulations 1987 (which relate to the manner of marking or labelling of food) shall apply to the particulars with which a designated product is required to be marked or labelled by regulation 5 as if they were particulars with which food is required to be marked or labelled by the Food Labelling Regulations 1987.

(2) Any indication of minimum durability required by regulation 21 of the Food Labelling Regulations 1987 shall appear in the labelling of the designated product sold by retail or consigned or delivered pursuant to a sale by retail in the same field of vision as the particulars required by regulation 5(1)(a), (b) and (c).

(3) The particulars with which any designated product is required to be marked or labelled by Regulation 5A shall appear on the container, on a label attached to the container or in an accompanying document.

Raw materials for designate products.

7. No person shall use as an ingredient in the preparation of any designated product any raw material which is not sound, wholesome and in marketable condition.

Permitted additional ingredients in certain designated products.

8. No person shall sell, consign or deliver pursuant to a sale, any designated product which contains any added ingredient:

Provided that-

- (a) any of the following designated products, namely, dried coffee extract, dried extract of coffee, instant coffee, and soluble coffee, intended for use in vending machines may contain any added permitted anti-caking agent;
- (b) any of the following designated products, namely, dried chicory extract, instant chicory, and soluble chicory may contain any added permitted anti-caking agent;
- (c) any designated product to which regulation 5(4) applies may contain any substance capable of acting as a decaffeination agent in so far as its use in food is not prohibited by the Act or any regulations made under it;
- (d) any of the following designated products, namely, liquid coffee extract, liquid chicory extract, liquid coffee and chicory extract, and liquid coffee and fig extract, may contain any added sugar product as specified in relation to that product in Schedule 1;
- (e) the following designated product, namely, chicory and coffee essence, may contain, in addition to any added sugar product as specified in relation to that product in Schedule 1 any permitted preservative.

Advertisement of designated products for sale from vending machines.

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

(2) Paragraph (1) of this regulation shall not apply where a reserved description relating to that designated product appears on a label on that container or a facsimile thereof being a label which complies with the requirements of these regulations as respects that designated product and such reserved description is conspicuous and legible to an intending purchaser on or through the outside of the vending machine.

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.

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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 was at the time of the alleged offence to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business

(2) In any proceeding against the manufacturer or importer of any designated product 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.

12. Sections 46(2) and (3) (which relate to prosecution), 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

DESIGNATED PRODUCTS

PART I.

COFFEE AND COFFEE MIXTURES AND THEIR RESERVED DESCRIPTIONS

Column 1	Column 2
<i>Reserved descriptions</i>	<i>Coffee and Coffee Mixtures</i>
Coffee	The dried seed of the coffee plant whether or not such seed has been roasted or ground or both roasted and ground.
Coffee and chicory mixture or Mixture of coffee and chicory or Either of the two foregoing descriptions but with the words "coffee" and "chicory" transposed.	A mixture of roasted coffee and chicory which contains no substance other than roasted coffee and chicory.
NOTE: The reserved description shall be such that it accords with regulation 2(8)	
French coffee-coffee and chicory mixture or Coffee and chicory-French coffee or French coffee-mixture of coffee and chicory or Mixture of coffee and chicory-French coffee	A mixture of roasted coffee and chicory of which not less than 51% is coffee and which contains no substance other than roasted coffee and chicory.
Coffee with fig flavouring or Coffee with fig seasoning or Viennese coffee-coffee with fig flavouring or Coffee with fig flavouring-Viennese coffee or Viennese coffee-coffee with fig seasoning or Coffee with fig seasoning-Viennese coffee.	A mixture of roasted coffee and fig of which not less than 85% is coffee and which contains no substance other than roasted coffee and fig.

PART II.

COFFEE EXTRACT PRODUCTS AND THEIR RESERVED DESCRIPTIONS.

Column 1	Column 2
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<i>Reserved descriptions</i>	<i>Coffee Extract Products</i>
Dried coffee extract or Dried extract of coffee or Instant coffee or Soluble coffee	Coffee extract in powder. granular, flake. cube or other solid form, of which the coffee-based dry matter content, determined according to the method of analysis referred to in item (2) of Schedule 2, is not less than 95%
Coffee extract paste	Coffee extract in paste form, of which the coffee-based dry matter content, determined according to the method of analysis referred to in item (3) of Schedule 2, is not more than 85% and not less than 70%.
Liquid coffee extract	Coffee extract in liquid form, of which %be coffee-based dry matter content, determined according to the method of analysis referred to in item (3) of Schedule 2 is not more than 55% but greater than 15%. NOTE: The product may contain added sugar products, whether or not roasted, in a proportion not exceeding 12%

PART III.

CHICORY EXTRACT PRODUCTS AND THEIR RESERVED DESCRIPTIONS

Column 1	Column 2
<i>Reserved descriptions</i>	<i>Coffee Extract Products</i>
Dried chicory extract or Instant chicory or Soluble chicory	Chicory extract in powder, granular, flake, cube or other solid form, of which the chicory-based dry matter content, determined according to the method of analysis
Chicory extract paste	Chicory extract in paste form, of which the chicory-based dry Matter content, determined according to the method at analysis referred to in item (3) of Schedule 2, is not more than 85% and not less than 70%

Liquid chicory extract	Chicory extract in liquid form, of which the chicory-based dry matter content, determined according to the method of analysis referred to in item (3) of Schedule 2 is less than 55% but greater than 25%. NOTE: This product may contain added sugar products, whether or not roasted, in a proportion not exceeding 35%.
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PART IV.

BLENDS OF EXTRACT AND EXTRACTS OF BLENDS AND THEIR RESERVED DESCRIPTIONS.

Column 1	Column 2
<i>Reserved descriptions</i>	<i>Blends of extracts and extracts of blends</i>
Dried coffee and chicory extract or Dried extract of coffee and chicory or Instant coffee and chicory or Soluble coffee and chicory or Any of the four foregoing descriptions but with the words "coffee" and "chicory" transposed. NOTE: The reserved description shall be such that it accords with regulation 2(8).	An intimate mixture of coffee extract and chicory extract in powder, granular, flake, cube or other solid form, of which the coffee and chicory-based dry matter content in the finished product is not less than 95%.
Coffee and chicory paste or Chicory and coffee paste NOTE: The reserved description shall be such that it accords with regulation 2(8).	An intimate mixture of coffee extract paste and chicory extract paste in paste form, of which the coffee and chicory-based dry matter content in the finished product is not more than 85% and not less than 70%.
Liquid coffee and chicory extract or Liquid chicory and coffee extract NOTE: The reserved description shall be such that it accords with regulation 2(8).	A homogenous mixture of liquid coffee extract and liquid chicory extract in liquid form, of which the coffee and chicory-based dry matter content in the finished product is not more than 55% but greater than 15%. NOTE: This product may contain added sugar products, whether or not roasted in a proportion not exceeding 25%.

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Chicory and coffee essence	A homogenous mixture of liquid form, of which the chicory-based dry matter content is not less than 20% and the coffee-based dry matter content is not less than 5% in the finished product. NOTE: This product may contain added sugar products.
Dried extract of coffee and fig or Dried coffee and fig extract or Instant coffee and fig or Soluble coffee and fig or Any of the four foregoing descriptions but with the words "coffee" and "fig" transposed. NOTE: The reserved description shall be such that it accords with regulation 2(8).	An intimate mixture of coffee extract and fig extract in powder, granular, flake, cube or other solid form, of which the coffee and fig-based dry matter content in the finished product is not less than 95%.
Coffee and fig paste or Fig and coffee paste NOTE: The reserved description shall be such that it accords with regulation 2(8).	An intimate mixture of coffee extract paste and fig extract paste in paste form, of which the coffee and fig-based dry matter content in the finished product is not more than 85% and not less than 70%.
Liquid coffee and fig extract or Liquid fig and coffee extract NOTE: The reserved description shall be such that it accords with regulation 2(8).	A homogenous mixture of liquid coffee extract and liquid fig extract in liquid form, of which the coffee and fig-based dry matter content in the finished product is not more than 55% but greater than 15%. NOTE: This product may contain added sugar products, whether or not roasted, in a proportion not exceeding 25%.

SCHEDULE 2

Methods of Analysis

The methods of analysis listed in items (1), (2) and (3) of this Schedule are those prescribed in Annex II of the Commission Directive 79/1066/EEC laying down Community methods of analysis for testing coffee extracts and chicory extracts (hereinafter called 'the Annex') and are to be read with the General Provisions of the Annex.

(1) The method for determining the caffeine content in decaffeinated coffee extracts shall be that described as Method 1 in the Annex.

(2) The method for determining the dry matter content in—

dried coffee extract and dried chicory extract,
Soluble coffee and soluble chicory,
instant coffee and instant chicory

shall be that described as Method 2 in the Annex.

(3) The method for determining the dry matter content in—

liquid coffee extract and liquid chicory extract,
coffee extract paste and chicory extract paste

shall be that described as Method 3 in the Annex