

2003 No. 1659

FOOD, ENGLAND

**The Cocoa and Chocolate Products (England)
Regulations 2003**

Made - - - - - 25th June 2003

Laid before Parliament 3rd July 2003

Coming into force - - - 3rd August 2003

The Secretary of State, in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990(a) and now vested in him(b) and of all other powers enabling him in that behalf, having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency, and after consultation both as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(c) and in accordance with section 48(4) and (4B) of that Act, hereby makes the following Regulations:

Title, commencement and application

1. These Regulations may be cited as the Cocoa and Chocolate Products (England) Regulations 2003, shall come into force on 3rd August 2003 and shall apply to England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar 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 and is ready for consumption without further preparation;

(a) 1990 c.16.

(b) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999 (c.28), and paragraphs 12 and 21 of that Schedule amend sections 17(1) and 48 of the 1990 Act. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), as read with section 40(3) of the 1999 Act, and those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46) as read with section 40(2) of the 1999 Act. Regulation 13(4) of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000 (S.I. 2000/656) expressly authorises the Secretary of State to amend or revoke existing Regulations made or having effect as if made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the 1990 Act.

(c) OJ No. L31, 1.2.2002, p.1.

“designated product” means any cocoa or chocolate product specified in column 2 of Schedule 1, as read with any Note to that Schedule and any provision of regulation 3 and Schedule 2 relating to that product; and “designated chocolate product” and “designated cocoa product” mean any such product which is respectively a chocolate product or a cocoa product;

“EEA Agreement” means the Agreement on the European Economic Area(a) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(b) signed at Brussels on 17th March 1993;

“EEA State means a State which is a Contracting Party to the EEA Agreement;

“food authority” does not include—

- (a) the council of a district in a non-metropolitan county except where the county functions have been transferred to that council pursuant to a structural change, or
- (b) the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner and the Middle Temple);

“the 1996 Regulations” means the Food Labelling Regulations 1996(c);

“other edible substances” does not include vegetable fats referred to in regulation 3 or the filling of any product specified in column 2 of item 7 or of item 10(a) of Schedule 1;

“preparation” includes manufacture and any form of processing or treatment;

“reserved description”, as respects any designated product, means any description specified in relation to that product in column 1 of Schedule 1;

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

“ultimate consumer” means any person who buys otherwise than—

- (a) for the purpose of resale,
- (b) for the purposes of a catering establishment, or
- (c) for the purposes of a manufacturing business.

(2) Any reference in these Regulations to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule bearing that number in these Regulations.

Vegetable fats in chocolate products

3.—(1) Subject to paragraph (2) below, the vegetable fats, other than cocoa butter, specified in Schedule 2 may be added to those designated chocolate products specified in column 2 of items 3, 4, 5, 6, 8 and 9 of Schedule 1.

(2) An addition in accordance with paragraph 1 may not exceed 5 per cent of the finished product, after deduction of the total weight of any other edible substances used in accordance with the Note 1 to Schedule 1, without reducing the minimum content of cocoa butter or total dry cocoa solids.

Scope of Regulations

4. These Regulations apply to designated products intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment.

Reserved descriptions

5. No person shall sell any food with a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless—

- (a) such food is the designated product to which the reserved description relates;
- (b) 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

(a) OJ No. L1, 3.1.94, p.1.

(b) OJ No. L1, 3.1.94, p.571.

(c) S.I. 1996/1499, the relevant amending instrument is S.I. 1998/1398.

- (c) 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.

Labelling and description of designated products

6.—(1) Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell any designated product unless it is marked or labelled with the following particulars—

- (a) subject to paragraphs (2)(a) and (3) below, a reserved description of the product;
- (b) subject to paragraph (2) of regulation 7, in the case of a designated chocolate product which, pursuant to regulation 3, contains vegetable fats other than cocoa butter, the conspicuous and clearly legible statement “contains vegetable fats in addition to cocoa butter”;
- (c) where the words “milk chocolate” are used as the reserved description or a qualification of the reserved description of a designated chocolate product, an accompanying indication of the dry milk solids content in the form “milk solids ... % minimum”, provided that—
 - (i) as regards a designated chocolate product specified in column 2 of item 4(a) of Schedule 1, the dry milk solids content indicated is not less than 14 per cent; and
 - (ii) as regards a designated chocolate product specified in column 2 of item 5 of Schedule 1, the dry milk solids content indicated is not less than 20 per cent;
- (d) subject to paragraph (4) below, in the case of a designated product specified in column 2 of item 2(c), 2(d), 2(e), 3, 4, 5, 8 or 9 of Schedule 1, an indication of the total dry cocoa solids content in the form “cocoa solids ... % minimum”;
- (e) in the case of a designated cocoa product specified in column 2 of item 2(b) or 2(e), an indication of the cocoa butter content.

(2) Where designated chocolate products specified in column 2 of items 3, 4, 5, 6, 7 and 10 of Schedule 1 are sold in an assortment—

- (a) the reserved description may be replaced by “assorted chocolates” or “assorted filled chocolates” or a similar name; and
- (b) the list of ingredients with which food is required by the 1996 Regulations to be marked or labelled may be a single list of ingredients for all the products in the assortment.

(3) The reserved descriptions “chocolate”, “milk chocolate” and “couverture chocolate” may be supplemented by information or descriptions relating to quality criteria provided that the product contains —

- (a) in the case of the reserved description “chocolate”, not less than 43 per cent total dry cocoa solids, including not less than 26 per cent cocoa butter;
- (b) in the case of the reserved description “milk chocolate”, not less than 30 per cent total dry cocoa solids and not less than 18 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi-skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat, including not less than 4.5 per cent milk fat;
- (c) in the case of the reserved description “couverture chocolate”, not less than 16 per cent dry non-fat cocoa solids.

(4) The total dry cocoa solids content with which a designated product is required by paragraph (1)(d) above to be marked or labelled shall be calculated after deduction of the weight of other edible substances provided for in Note 1 to Schedule 1 but not the weight of any ingredient specified in column 2 of Schedule 1 as an ingredient of that product or of any vegetable fat added in accordance with regulation 3.

Manner of marking or labelling

7.—(1) Regulations 35, 36(1) and (5) and 38 of the 1996 Regulations (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 6 of these Regulations as if they were particulars with which food is required to be marked or labelled by the 1996 Regulations.

(2) The information with which a designated chocolate product is required to be marked or labelled by paragraph (1)(b) of regulation 6 shall be—

- (a) in the same field of vision as the list of ingredients with which the product is required by the 1996 Regulations to be marked or labelled;
- (b) clearly separated from that list;
- (c) in bold lettering no less large than that of the list; and
- (d) located near the reserved description, which may also appear elsewhere on the marking or labelling.

Penalties and enforcement

8.—(1) If any person contravenes or fails to comply with any provision of regulation 5 or 6 he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Each food authority shall enforce and execute these Regulations in its area.

Defence in relation to exports

9. In any proceedings for an offence under these Regulations it shall be a defence for the person accused to prove—

- (a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that the food complies with that legislation; and
- (b) in the case of export to an EEA State, that the legislation complies with the provisions of Directive 2000/36/EC of the European Parliament and the Council relating to cocoa and chocolate products intended for human consumption^(a).

Application of various provisions of the Food Safety Act 1990

10. The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations—

- (a) section 2 (extended meaning of sale etc.);
- (b) section 3 (presumptions that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15 of the Act;
- (e) section 22 (defence of publication in the course of business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 33(1) (obstruction etc. of officers);
- (h) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection (1)(b) above”, shall be deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (g) above;
- (i) section 35(1) (punishment of offences) in so far as it relates to offences under section 33(1) as applied by sub-paragraph (g) above;
- (j) section 35(2) and (3) in so far as it relates to offences under section 33(2) as applied by sub-paragraph (h) above;
- (k) section 36 (offences by bodies corporate); and
- (l) section 44 (protection of officers acting in good faith).

Amendments and revocations

11.—(1) In the 1996 Regulations (in so far as they apply to England) in regulation 4(2) (scope of Part II) sub-paragraph (b) shall be omitted.

(a) OJ No. L197, 3.8.2000. p. 19, as adopted by EEA Joint Committee Decision 152/2001 (OJ No. L65, 7.3.2002, p. 26).

(2) The following entries relating to the Cocoa and Chocolate Products Regulations 1976(a) shall (in so far as the following Regulations apply to England), be omitted—

- (a) in the Food (Revision of Penalties) Regulations 1982(b), in Schedule 1;
- (b) in the Food (Revision of Penalties) Regulations 1985(c), in Schedule 1, Part I;
- (c) in the Food Safety Act 1990 (Consequential Modifications) (England and Wales) Order 1990(d), in Schedule 1, Part I, Schedule 2, Schedule 3, Part I and Schedules 6 and 12;
- (d) in the Food Safety (Exports) Regulations 1991(e) in Schedule 1, Part I;
- (e) in the Food (Forces Exemptions) (Revocations) Regulations 1992(f), in Schedule 1, Part I;
- (f) in the Miscellaneous Food Additives Regulations 1995(g), in Schedule 9;
- (g) in the 1996 Regulations, in regulation 49(4)(a) and Schedule 9;
- (h) in the Miscellaneous Food Additives (Amendment) Regulations 1999(h), in regulation 14(1);
- (i) in the Miscellaneous Food Additives (Amendment) (England) (No. 2) Regulations 2001(i), in regulation 9(2).

(3) In Schedule 9 to the Miscellaneous Food Additives Regulations 1995 (in so far as they apply to England) the entry relating to the Cocoa and Chocolate Products (Amendment) Regulations 1982(j) shall be omitted.

(4) In so far as the Regulations in which they appear apply to England, there shall be substituted for the following references to Directive 73/241/EEC(k), references to Directive 2000/36/EC(l)—

- (a) in the Colourings in Food Regulations 1995(m), in Schedule 2;
- (b) in the Miscellaneous Food Additives Regulations 1995(n), in Schedule 3 and in Schedule 7.

(5) The Cocoa and Chocolate Products Regulations 1976 and the Cocoa and Chocolate Products (Amendment) Regulations 1982 are hereby revoked (in so far as they apply to England).

Transitional provision

12. In any proceedings for an offence under these Regulations it shall be a defence for the accused to prove that—

- (a) the food concerned was marked or labelled before 3rd August 2003, and
- (b) the matters constituting the alleged offence would not have constituted an offence under the Cocoa and Chocolate Products Regulations 1976 as they stood immediately before the date of coming into force of these Regulations.

Signed by authority of the Secretary of State for Health

Melanie Johnson
Parliamentary Under-Secretary of State,
Department of Health

25th June 2003

-
- (a) S.I. 1976/541; relevant amending instruments S.I. 1982/17, 1982/1727, 1985/67, 1990/2486, 1991/1476, 1992/2596, 1995/3187, 1996/1499.
 - (b) S.I. 1982/1727 to which there are amendments not relevant to these Regulations.
 - (c) S.I. 1985/67 to which there are amendments not relevant to these Regulations.
 - (d) S.I. 1990/2486 to which there are amendments not relevant to these Regulations.
 - (e) S.I. 1991/1476 to which there are amendments not relevant to these Regulations.
 - (f) S.I. 1992/2596 to which there are amendments not relevant to these Regulations.
 - (g) S.I. 1995/3187; relevant amending instruments are S.I. 1997/1413, 1999/1136, 2000/3323, 2001/60 and 2001/3775.
 - (h) S.I. 1999/1136.
 - (i) S.I. 2001/3775.
 - (j) S.I. 1982/17.
 - (k) OJ No. L228, 16.8.1973, p.23, as repealed with effect from 3rd August 2003 by Directive 2000/36/EC (OJ No. L197, 3.8.2000, p.19).
 - (l) OJ No. L197, 3.8.2000, p.19.
 - (m) S.I. 1995/3124 to which there are amendments not relevant to these Regulations.
 - (n) S.I. 1995/3187; the relevant amending instrument is S.I. 1999/1136.

COCOA AND CHOCOLATE PRODUCTS AND THEIR RESERVED DESCRIPTIONS

Column 1	Column 2
Reserved Descriptions	Designated Products
1. Cocoa butter	<p>The fat obtained from cocoa beans or parts of cocoa beans with the following characteristics:—</p> <ul style="list-style-type: none"> — not more than 1.75 per cent free fatty acid content (expressed as oleic acid); and — for press cocoa butter, not more than 0.35 per cent unsaponifiable matter (determined using petroleum ether); or — for other cocoa butter, not more than 0.5 per cent unsaponifiable matter (so determined).
<p>2. (a) Cocoa powder or Cocoa</p> <p>(b) Fat-reduced cocoa or Fat-reduced cocoa powder</p> <p>(c) Powdered chocolate or Chocolate in powder</p> <p>(d) Drinking chocolate or Sweetened cocoa or Sweetened cocoa powder</p> <p>(e) Fat-reduced drinking chocolate or Fat-reduced sweetened cocoa or Fat-reduced sweetened cocoa powder</p>	<p>The product obtained by converting into powder cocoa beans which have been cleaned, shelled and roasted, and which contains not less than 20 per cent cocoa butter, calculated according to the weight of the dry matter, and not more than 9 per cent water.</p> <p>Cocoa powder containing less than 20 per cent cocoa butter, calculated according to the weight of the dry matter.</p> <p>The product consisting of a mixture of cocoa powder and sugars, containing not less than 32 per cent cocoa powder.</p> <p>The product consisting of a mixture of cocoa powder and sugars, containing not less than 25 per cent cocoa powder.</p> <p>The product consisting of a mixture of cocoa powder specified at item 2(b) and sugars, containing not less than 25 per cent of such cocoa powder.</p>
<p>3. (a) Chocolate</p> <p>(b) If “Chocolate” is supplemented by</p> <p>(i) “vermicelli” or “flakes”</p> <p>(ii) “couverture”</p> <p>(iii) “Gianduja” or one of the derivatives of “Gianduja”</p>	<p>(a) The product obtained from cocoa products and sugars which, subject to item 3(b), contains not less than 35 per cent total dry cocoa solids, including not less than 18 per cent cocoa butter and not less than 14 per cent of dry non-fat cocoa solids.</p> <p>(b)</p> <p>(i) The product presented in the form of granules or flakes containing not less than 32 per cent total dry cocoa solids, including not less than 12 per cent cocoa butter and not less than 14 per cent of dry non-fat cocoa solids.</p> <p>(ii) The product containing not less than 35 per cent total dry cocoa solids, including not less than 31 per cent cocoa butter and not less than 2.5 per cent of dry non-fat cocoa solids.</p> <p>(iii) The nut chocolate product obtained (1) from chocolate having a minimum total dry cocoa solids content of 32 per cent including a minimum dry non-fat cocoa solids content of 8 per cent, and (2) from finely ground hazelnuts in such quantities that 100 grams of the product contain not less than 20 grams and not more than 40 grams of hazelnuts; and to which may have been added—</p> <ul style="list-style-type: none"> — milk or dry milk solids obtained by evaporation or both, in such proportion that the finished product does not contain more than 5 per cent dry milk solids; — almonds, hazelnuts and other nut varieties, either whole or broken, in such quantities that, together with the ground hazelnuts, they do not exceed 60 per cent of the total weight of the product.

Column 1	Column 2
<p>4. (a) Milk chocolate</p> <p>(b) If “Milk chocolate” is supplemented by—</p> <p>(i) “vermicelli” or “flakes”</p> <p>(ii) “couverture”</p> <p>(iii) “Gianduja” or one of the derivatives of “Gianduja”</p> <p>(c) If “Milk” is replaced by—</p> <p>(i) “cream”</p> <p>(ii) “skimmed milk”</p>	<p>(a) The product obtained from cocoa products, sugars and milk or milk products which, subject to item 4(b), contains—</p> <ul style="list-style-type: none"> — not less than 25 per cent total dry cocoa solids; — not less than 14 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi-skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat; — not less than 2.5 per cent dry non-fat cocoa solids; — not less than 3.5 per cent milk fat; — not less than 25 per cent total fat (cocoa butter and milk fat). <p>(b)</p> <p>(i) The product presented in the form of granules or flakes containing not less than 20 per cent total dry cocoa solids, not less than 12 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi-skimmed or skimmed milk, cream or from partly or wholly dehydrated cream, butter or milk fat and not less than 12 per cent total fat (cocoa butter and milk fat).</p> <p>(ii) The product containing a minimum total fat (cocoa butter and milk fat) content of 31 per cent.</p> <p>(iii) The nut milk chocolate product obtained (1) from milk chocolate having a minimum content of 10 per cent dry milk solids, obtained by partly or wholly dehydrating whole milk, semi-skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat and (2) from finely ground hazelnuts in such quantities that 100 grams of the product contain not less than 15 grams and not more than 40 grams of hazelnuts; and to which may have been added almonds, hazelnuts and other nut varieties, either whole or broken, in such quantities that, together with the ground hazelnuts, they do not exceed 60 per cent of the total weight of the product.</p> <p>(c)</p> <p>(i) The product containing a minimum milk fat content of 5.5 per cent.</p> <p>(ii) The product containing a milk fat content not greater than 1 per cent.</p>
<p>5. Family milk chocolate or Milk chocolate</p>	<p>The product obtained from cocoa products, sugars and milk or milk products which contains—</p> <ul style="list-style-type: none"> — not less than 20 per cent total dry cocoa solids; — not less than 20 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi-skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat; — not less than 2.5 per cent dry non-fat cocoa solids; — not less than 5 per cent milk fat; — not less than 25 per cent total fat (cocoa butter and milk fat).
<p>6. White chocolate</p>	<p>The product obtained from cocoa butter, milk or milk products and sugars which contains not less than 20 per cent cocoa butter and not less than 14 per cent dry milk solids obtained by partly or wholly dehydrating whole milk, semi-skimmed or skimmed milk, cream, or from partly or wholly dehydrated cream, butter or milk fat, of which not less than 3.5 per cent is milk fat.</p>
<p>7. Filled chocolate or Chocolate with ... filling or Chocolate with ... centre</p>	<p>The filled product, the outer part of which consists of a product specified in column 2 of item 3, 4, 5 or 6 of this Schedule and constitutes not less than 25 per cent of the total weight of the product, but does not include any filled product, the inside of which consists of bakery products, pastry, biscuit or edible ice.</p>
<p>8. Chocolate a la taza</p>	<p>The product obtained from cocoa products, sugars, and flour or starch from wheat, rice or maize, which contains not less than 35 per cent total dry cocoa solids, including not less than 18 per cent cocoa butter and not less than 14 per cent dry non-fat cocoa solids, and not more than 8 per cent flour or starch.</p>

Column 1	Column 2
9. Chocolate familiar a la taza	The product obtained from cocoa products, sugars, and flour or starch from wheat, rice or maize, which contains not less than 30 per cent total dry cocoa solids, including not less than 18 per cent cocoa butter and not less than 12 per cent dry non-fat cocoa solids, and not more than 18 per cent flour or starch.
10. A chocolate or A praline	The product in single mouthful size, consisting of:— (a) the product specified in column 2 of item 7 of this Schedule; or (b) a single chocolate or a combination or a mixture of chocolate within the meaning of any of the definitions specified in column 2 of items 3, 4, 5 and 6 of this Schedule and any other edible substance, provided that the chocolate constitutes not less than 25 per cent of the total weight of the product.

Notes.

1.—(1) Subject to regulation 3 and paragraph (2) of this Note, other edible substances may also be added to the designated chocolate products specified in column 2 of items 3, 4, 5, 6, 8 and 9 of this Schedule:

Provided that this paragraph does not authorise the addition—

- (a) of animal fats and their preparations not deriving solely from milk; or
- (b) of flours, granular and powdered starch other than in accordance with the definitions specified in column 2 of items 8 and 9 of this Schedule; or
- (c) of other edible substances in a quantity exceeding 40 per cent of the total weight of the finished product.

(2) Only those flavourings which do not mimic the taste of chocolate or of milk fat may be added to the designated products specified in column 2 of items 2, 3, 4, 5, 6, 8 and 9 of this Schedule.

2.—(1) The minimum contents of the designated chocolate products specified in column 2 of items 3, 4, 5, 6, 8 and 9 of this Schedule shall be calculated after deduction of the weight of other edible substances provided for in Note 1 to this Schedule.

(2) In the case of the designated chocolate products specified in column 2 of items 7 and 10 of this Schedule, the minimum contents shall be calculated after deducting the weight of other edible substances provided for in Note 1 to this Schedule, as well as the weight of the filling.

(3) The chocolate contents of the designated chocolate products specified in column 2 of items 7 and 10 of this Schedule shall be calculated in relation to the total weight of the finished product, including its filling.

3. In this Schedule, “sugars” includes sugars covered by Council Directive 2001/111/EC(a) and other sugars.

(a) OJ L10, 12.1.2002, p.53.

SCHEDULE 2

Regulations 2 and 3

AUTHORISED VEGETABLE FATS

1. Subject to the following paragraphs of this Schedule, the vegetable fats referred to in regulation 3 are, singly or in blends, cocoa butter equivalents and shall comply with the following criteria:—

- (a) they are non-lauric vegetable fats, which are rich in symmetrical monounsaturated triglycerides of the type POP, POSt and StOSt;
- (b) they are miscible in any proportion with cocoa butter, and are compatible with its physical properties (melting point and crystallisation temperatures, melting rate, need for tempering phase);
- (c) they are obtained only by the processes of refining or fractionation or both, which exclude enzymatic modification of the triglyceride structure.

2. In conformity with the criteria specified in paragraph 1 above, the following vegetable fats, obtained from the plants listed in the Table below, may be used:—

Usual name of vegetable fat	Scientific name of the plants from which the fats listed can be obtained
1. Illipe, Borneo tallow or Tengawang	<i>Shorea</i> spp.
2. Palm-oil	<i>Elaeis guineensis</i> <i>Elaeis olifera</i>
3. Sal	<i>Shorea robusta</i>
4. Shea	<i>Burtyrospermum parkii</i>
5. Kokum gurgi	<i>Garcinia indica</i>
6. Mango kernel	<i>Mangifera indica</i>

3. Coconut oil may be used in chocolate for the manufacture of ice cream and similar frozen products.

4. In this Schedule—

“P” means palmitic acid;

“O” means oleic acid;

“St” means stearic acid.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England, implement Directive 2000/36/EC of the European Parliament and the Council relating to cocoa and chocolate products intended for human consumption^(a). They revoke and replace the Cocoa and Chocolate Products Regulations 1976, as amended, in relation to England.

The Regulations—

- (a) prescribe definitions and reserved descriptions for designated cocoa and chocolate products (regulation 2 and Schedule 1);
- (b) specify the vegetable fats, other than cocoa butter, which may be added to designated chocolate products (regulation 3 and Schedule 2);
- (c) apply the Regulations to designated cocoa and chocolate products intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment (regulation 4);
- (d) restrict the use of reserved descriptions to the designated cocoa and chocolate products to which they relate (regulation 5);
- (e) require reserved descriptions and specified declarations to be applied to designated cocoa and chocolate products and prescribe the manner of marking or labelling (regulations 6 and 7);
- (f) specify a penalty, enforcement responsibilities and, in accordance with Articles 2 and 3 of Council Directive 89/397/EEC on the official control of foodstuffs^(b) and the European Economic Area Agreement, a defence in relation to exports (regulations 8 and 9);
- (g) apply various provisions of the Food Safety Act 1990 (regulation 10);
- (h) remove the exemption for cocoa and chocolate products from Part II of the Food Labelling Regulations 1996, revoke the previous Cocoa and Chocolate Products Regulations and make consequential amendments and transitional provision (regulations 11 and 12).

A Regulatory Impact Assessment has been prepared and placed in the Library of each House of Parliament, together with a Transposition Note setting out how the main elements of the European legislation referred to above are transposed in these Regulations. Copies may be obtained from the Food Labelling and Standards Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

^(a) OJ No. L197, 3.8.2000, p.19.

^(b) OJ No. L186, 30.6.89, p. 23.

2003 No. 1659

FOOD, ENGLAND

**The Cocoa and Chocolate Products (England)
Regulations 2003**

£2.50

© Crown copyright 2003

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0798 7/2003 130798 19585

ISBN 0-11-046670-5



9 780110 466705