

**S.I. No. 236 of 2003**

**European Communities (Marketing of Cocoa and Chocolate Products)  
Regulations 2003**

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000<sup>1</sup>, hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Marketing of Cocoa and Chocolate Products) Regulations 2003 and come into operation on 3 August 2003.

2. (1) In these Regulations:-

“Annex I” means Annex I to the Directive;

“Annex II” means Annex II to the Directive;

“ authorised officer ” means -

(a) a person appointed in writing by the Minister to be an authorised officer under Regulation 5(1) for the purposes of these Regulations, or

(b) an authorised officer for the purposes of the Regulations of 2002 ;

“Directive ” means Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000;

“Minister” means the Minister for Agriculture and Food;

“place on the market” includes to advertise, barter, offer or expose for sale by wholesale or retail or have in possession for sale by wholesale or retail and invite to buy, and cognate words shall be construed accordingly.

“Regulations of 2002” means the European Communities Regulations (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 483 of 2002);

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<sup>1</sup> O.J. No. L.197, 3.8.2000, p.19.

“premises” includes any place, vehicle, ship or other vessel, aircraft, railway wagon or other means of transport or any container used to transport cocoa or chocolate products.

“vehicle” means any form of transport conveyance including a trailer.

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

(3) In these Regulations, unless the contrary intention appears, a reference to a Regulation is to a Regulation of these Regulations and a reference to a paragraph is a reference to the paragraph in which the reference occurs.

3. (1) These Regulations apply to the cocoa and chocolate products referred to in Annex I.  
(2) These Regulations shall be deemed to be food legislation for the purposes of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998).
4. (1) Subject to paragraph (4), a person shall not place cocoa and chocolate products on the market unless the product complies with the provisions of the Regulations of 2002, subject to the conditions laid down in Article 3 of the Directive.  
(2) A person shall not add vegetable fats other than cocoa butter to the products listed at A. 3., A. 4., A. 5., and A.6. A.8. and A. 9. of Annex I other than a vegetable fat listed at Annex II and subject to the requirements set out in Article 2 of the Directive.  
(3) The sales designation ”milk chocolate” may be used within the State to describe the product designated at A. 5. of Annex I provided the amount of dry milk solids is indicated in the form “ milk solids.....% minimum”.  
(4) Cocoa and chocolate products labelled before the commencement of these Regulations in accordance with the Food Standards (Cocoa and Chocolate

Products) (European Communities) Regulations 1975 (S.I. 180 of 1975) may continue to be placed on the market until stocks are exhausted.

5. (1) The Minister may appoint such and so many persons he or she thinks fit to be an authorised officer for the purposes of these Regulations.
- (2) (a) An authorised officer shall be furnished with a warrant of his or her appointment, and
- (b) when exercising any power conferred by these Regulations, shall, if requested by any person affected, produce the warrant, to that person for inspection.
- (3) A person who obstructs or interferes with an authorised officer in the exercise of his or her powers under these Regulations or gives an authorised officer information which is false or misleading shall be guilty of an offence.
- (4) A person who without reasonable excuse fails to comply with a request made by an authorised officer under these Regulations shall be guilty of an offence.
6. (1) An authorised officer may at all reasonable times, for the purposes of insuring that these Regulations are being complied with –
  - (a) enter and inspect any premises in which he or she has reasonable grounds for believing that cocoa or chocolate products are being manufactured, held or kept for importation, preparation or placement on the market or are placed on the market, or records pertaining to such activities are being retained,
  - (b) inspect and take copies of or extracts from any books, documents or other records which he or she finds in the course of the inspection,
  - (c) examine and copy any data or data material (within the meaning in each case of the Data Protection Act, 1988 (No. 25 of 1988)) he or she finds there,

extract information from any such data and take extracts from any such material,

(d) carry out such examinations, tests and inspections, as he or she may think fit and remove from there any product for further examination,

(e) take, without payment, such samples, including samples of wrapping, packaging, labelling or advertising material as he or she may think fit.

(f) seize and detain cocoa and chocolate products,

(g) secure for later inspection the premises or part of the premises,

(h) if accompanied by-

(i) a member of the Garda Síochána in uniform, or

(ii) an officer of the Revenue Commissioners in uniform authorised by them to exercise powers conferred by the Customs Acts for the statutes which relate to the duties of excise,

stop any vehicle which the authorised officer has reasonable grounds to suspect contains any cocoa or chocolate products to which these Regulations apply.

(2) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (4)

(3) An authorised officer, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer by this Regulation.

(4) If a Judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there are cocoa or chocolate products on any premises or at any place, the judge may issue a warrant authorising an authorised officer, accompanied if appropriate, by other

authorised officers or by a member or members of the Garda Síochána at any time or times within one month of the date of issue of the warrant, on production of the warrant requested, to enter those premises or part of those premises or that place, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under these Regulations.

7. (1) It is an offence to fail to comply with these Regulations.  
(2) An offence under these Regulations may be prosecuted by the Minister, the Director of Consumer Affairs or by a Health Board in whose functional area the offence was committed.  
(3) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3,000.
8. The Food Standards (Cocoa and Chocolate Products) (European Communities) Regulations 1975 (S.I. No. 180 of 1975) are revoked.

Given under my Official Seal,

11 June 2003

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Joe Walsh

Minister for Agriculture and Food

## EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to give legal effect to Directive 2000/36/EC of the European Parliament and of the Council, which prescribes, and harmonises within the European Union, standards for the composition and labelling of cocoa and chocolate products.

These Regulations should be read in conjunction with Directive 2000/36/EC.

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