STATUTORY RULES OF NORTHERN IRELAND

2014 No. 223

FOOD

The Food Information Regulations (Northern Ireland) 2014

Made - - - - 21st August 2014
Coming into operation in accordance with regulation 1(2) to (5)

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1), 16, 17, 25, 26(3), 44 and 47(2) of, and paragraphs 1 and 4(b) of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(**2**) and section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

The Department of Health, Social Services and Public safety has been designated(**4**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to food and drink intended for sale for human consumption, including the presentation, packaging, labelling, marketing and advertising of such food and drink.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Department of Health, Social Services and Public Safety that it is expedient for references to provisions of Regulation (EU) No 1169/2011(**5**) of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 specified in Regulation 2(3) and Schedule 1 to be construed as a reference to that Regulation as amended from time to time.

Insofar as these Regulations are made in exercise of powers under the Food Safety (Northern Ireland) Order 1991, the Department of Health, Social Services and Public Safety has had regard to relevant advice given by the Food Standards Agency in accordance with Article 47(3A) of that Order.

As required by Article 9 of Regulation (EC) No. 178/2002(**6**) 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, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)
(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505
(**3**) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (2008 c.7)
(**4**) S.I. 2005/2766, to which there are amendments not relevant to these Regulations
(**5**) OJ No L 304, 22.11.2011, p 18, last amended by Commission Delegated Regulation (EU) No 78/2014 100 No L27, 30.1.2014, p 7)
(**6**) OJ No L 31, 1.2.2002, p 1, last amended by Commission Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p 14)

Citation and commencement

1.—(1) These Regulations may be cited as the Food Information Regulations (Northern Ireland) 2014.

(2) Except as provided for in paragraphs (3) to (5), these Regulations come into operation on 13th December 2014.

(3) For the purposes of the following provisions these Regulations come into operation on 19th September 2014—

(a) regulation 4;

(b) regulation 12 and Schedule 4 so far as (by applying, with some modifications, specified provisions of the Order) they enable an improvement notice to be served on a person requiring that person to comply with the provision of FIC specified in Schedule 5, Part 1 and an appeal against such a notice to be made and dealt with, and make the failure to comply with such improvement notice an offence;

(c) regulation 14 so far as it relates to Schedule 7, Part 1;

(d) Schedule 2;

(e) Schedule 5, Part 1; and

(f) Schedule 7, Part 1.

(4) For the purposes of the following provisions, these Regulations come into operation on 13th December 2016—

(a) Schedule 5, Part 3; and

(b) regulation 12 and Schedule 4 so far as (by applying, with some modifications, specified provisions of the Order) they enable an improvement notice to be served on a person requiring them to comply with the provision of FIC specified in Schedule 5, Part 3 and an appeal against such a notice to be made and dealt with, and make the failure to comply with such improvement notice an offence.

(5) For the purposes of Schedule 6, Part 2 and regulation 13 so far as it relates to that Part of Schedule 6, these Regulations come into operation on 13th December 2018.

Interpretation

2.—(1) In these Regulations—

"Directive 1999/2/EC" means Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation(**7**);

"FIC" means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004;

"final consumer" has the meaning given in point 18 of Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles

(**7**) OJ No L 66, 13.3.1999, p 16, last amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ No L 311, 21.11.2008, p 1)

and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;

"food business operator" has the meaning given in point 3 of Article 3 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;

"mass caterer" has the meaning given in Article 2(2)(d);

"means of distance communication" has the meaning given in Article 2(2)(u);

"offered for sale" has the same meaning as in Article 44;

"the Order" means the Food Safety (Northern Ireland) Order 1991;

"prepacked food" has the meaning given in Article 2(2)(e);

"prepacked for direct sale" has the same meaning as in Article 2(2)(e); and

"ready for consumption" has the same meaning as in Article 2(2)(d).

(2) In these Regulations, any reference to an Article is a reference to an Article of FIC and any reference to an Annex is a reference to an Annex to FIC.

(3) Any reference to FIC, or a provision of FIC (including a reference to an Article of, or Annex to, FIC to which paragraph (2) applies, in a provision of these Regulations listed in Schedule 1 is a reference to that provision as amended from time to time.

(4) The Interpretation Act (Northern Ireland) 1954(**8**) applies to these Regulations as it applies to an Act of the Assembly.

Derogation relating to milk and milk products

3. The requirements laid down in Articles 9(1) and 10(1) do not apply to milk or milk products presented in a glass bottle where the glass bottle is intended for reuse.

Derogation relating to minced meat

4.—(1) The requirements laid down in Annex VI, Part B, point 1, do not prevent minced meat that does not comply with those requirements being placed on the market using a minced meat designation if the national mark in Schedule 2, Part 1 appears on the labelling.

(2) Schedule 2, Part 2 applies to the form of the national mark.

(3) In paragraph (1)—

"on the labelling" has the same meaning as in Annex VI, Part B, point 2, as read with the definition of "labelling" in Article 2(2)(j);

"placed on the market" is to be construed taking into account the meaning of "placing on their national market" as used in Annex VI, Part B, point 3.

Foods that are not prepacked etc. containing an allergenic substance or product etc.

5.—(1) A food business operator who offers for sale a relevant food to which this regulation applies may make available the particulars specified in Article 9(1)(c) (labelling of certain substances or products causing allergies or intolerances) in relation to that food by any means the operator chooses, including, subject to paragraph (3), orally.

(2) This regulation applies to a relevant food that is offered for sale to a final consumer or to a mass caterer otherwise than by means of distance communication and is—

(**8**) 1954 c.33 (NI)

(a) not prepacked,

(b) packed on the sales premises at the consumer's request, or

(c) prepacked for direct sale.

(3) Where a food business operator intends to make available the particulars specified in Article 9(1)(c) relating to a relevant food orally, and a substance or product listed in Annex II or derived from a substance or product listed in Annex II is used as an ingredient or processing aid in the manufacture or preparation of the food, the operator must indicate that details of that substance or product can be obtained by asking a member of staff.

(4) The indication mentioned in paragraph (3) must be given—

(a) on a label attached to the food, or

(b) on a notice, menu, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food.

(5) In relation to a relevant food to which this regulation applies, the Article 9(1)(c) particulars made available by a food business operator must be made available with a clear reference to the name of the substance or product listed in Annex II where—

(a) the relevant ingredient or processing aid is derived from a substance or product listed in Annex II, and

(b) the particulars are made available otherwise than by means provided for in FIC.

(6) In this regulation "relevant food" means a food in which an ingredient or processing aid listed in Annex II, or derived from a substance or product listed in Annex II, has been used in its manufacture or preparation and that is still present in the finished product (even if in an altered form).

Foods that are not prepacked etc. – general requirement to name them

6.—(1) A food business operator who offers for sale a food to which this regulation applies must provide the particulars required by Article 9(1)(a) (the name of the food) as read with—

(a) Article 17(1) to (4), and

(b) in the case of food offered for sale using a minced meat designation as a name—

(i) Article 17(5) and Annex VI, Part B, point 1 and

(ii) Annex VI, Part B, point 3, as read with regulation 4 and Schedule 2.

(2) This regulation applies to a food that is offered for sale to a final consumer or a mass caterer and is—

(a) not prepacked,

(b) packed on the sales premises at the consumer's request, or

(c) prepacked for direct sale.

(3) This regulation does not apply to a food prepared to be ready for consumption by a final consumer that is offered for sale to a final consumer by a mass caterer (whether at a mass catering establishment where sales are made in person to a final consumer or by means of distance communication) as part of their business as a mass caterer.

(4) The particulars must appear —

(a) on a label attached to the food; or

(b) on a notice, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food.

(5) Paragraph (4) does not apply in the case of an offer for sale made by means of distance communication.

Foods that are not prepacked etc. containing meat and other ingredients

7.—(1) A food business operator who offers for sale a food to which this regulation applies must provide the particulars required by Article 9(1)(d) (quantity of certain ingredients), as read with Article 22 and Annex VIII, in respect of the ingredients in the food that are meat.

(2) This regulation applies to a food (other than a food specified in Schedule 3) that is offered for sale to a final consumer or a mass caterer, contains meat and any other ingredient and is—

(a) not prepacked,

(b) packed on the sales premises at the consumer's request, or

(c) prepacked for direct sale.

(3) This regulation does not apply to a food prepared to be ready for consumption by a final consumer that is offered for sale to a final consumer by a mass caterer (whether at a mass catering establishment where sales are made in person to a final consumer or by means of distance communication) as part of their business as a mass caterer.

(4) The quantity of meat specified in the particulars mentioned in paragraph (1) is to be determined taking into account the provisions relating to total fat and connective tissue content in Annex VII, Part B, point 17, including any downward adjustment needed in a case where the total fat and connective tissue content in the food exceeds the values indicated in the table in that point.

(5) The particulars must appear—

(a) on a label attached to the food, or

(b) on a notice, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food.

(6) Paragraph (5) does not apply in the case of an offer for sale made by means of distance communication.

(7) In this regulation—

"meat" means the skeletal muscles of mammalian and bird species recognised as fit for human consumption with naturally included or adherent tissue but does not include mechanically separated meat;

"mechanically separated meat" has the meaning given in Annex I, point 1.14, to Regulation (EC) No 853/2004(**9**) of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin.

Irradiated foods

8.—(1) Any person who places on the market, in bulk, a product to which this paragraph applies must ensure that the relevant indication appears, together with the name of the product, on a display or notice above or beside the container in which the products are placed on the market.

(2) Paragraph (1) applies to—

(a) a product intended for the ultimate consumer or mass caterers that has been treated with ionising radiation, and

(b) a product intended for the ultimate consumer or mass caterers that contains an ingredient that has been treated with ionising radiation.

(3) Any person who places on the market a product to which this paragraph applies must ensure that the relevant indication appears in the list of ingredients of that product to indicate the ingredient that has been irradiated.

(4) Paragraph (3) applies to a product intended for the ultimate consumer or mass caterers—

(**9**) OJ No L139, 30.4.2004, p55, last amended by Commission Regulation (EU) No 633/2014 (OJ No L175, 16.6.2014, p 6)