STATUTORY RULES OF NORTHERN IRELAND

2010 No. 414

FOOD

The Flavourings in Food Regulations (Northern Ireland) 2010

Made - - - - 13th December 2010

Coming into operation 20th January 2011

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a), (e) and (f), 16(2), 25(1)(a) and (b) and (3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**).

In accordance with Article 47(3A) of that Order, it has had regard to relevant advice given by the Food Standards Agency.

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(**3**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Flavourings in Food Regulations (Northern Ireland) 2010 and come into operation on 20th January 2011.

Interpretation

2.—(1) In these Regulations —

"authorised officer" means any person who is authorised in writing, either generally or specifically, by a district council (whether or not that person is an officer of that district council) to act in matters arising under these Regulations;

"the EU Regulation" means Regulation (EC) No.1334/2008 of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use

(**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**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14)

in and on foods and amending Council Regulation (EEC) No. 1601/91, Regulations (EC) No. 2232/96 and (EC) No. 110/2008 and Directive 2000/13/EC(**4**);

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

(2) Any other expression used in these Regulations and in the EU Regulation has the same meaning in these Regulations as it bears in the EU Regulation.

(3) Any reference in regulation 3 to a numbered Article is a reference to the Article so numbered in the EU Regulation.

Offences and penalties

3.—(1) A person who contravenes or fails to comply with any of the EU provisions specified in paragraph (2) as read with the transitional arrangements contained in Article 30 is guilty of an offence.

(2) The EU provisions are —

(a) Article 4 (general conditions of use of flavourings or food ingredients with flavouring properties);

(b) Article 5 (prohibition of non-compliant flavourings or non-compliant food);

(c) Article 6(1) and (2) (restrictions on the presence of certain substances);

(d) Article 7 (restrictions on the use of certain source materials);

(e) Article 10 (restriction relating to the Community list of flavourings and source materials);

(f) Article 14(1) (labelling of flavourings not intended for sale to the final consumer);

(g) Article 17 (labelling of flavourings intended for sale to the final consumer); and

(h) Article 19(2) and (3) (reporting obligations on food business operators).

(3) Anyone convicted of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement authorities

4. It is the duty of each district council within its district to execute and enforce these Regulations and the EU Regulation.

Application of various Articles of the Food Safety (Northern Ireland) Order 1991

5.—(1) The following provisions of the Order apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or Part of it is to be construed as a reference to these Regulations —

(a) Article 19 (offences due to fault of another person);

(b) Article 20 (defence of due diligence) with the modification that —

(i) paragraphs (2) to (4) apply in relation to an offence under regulation 3(1) of contravening any of the EU provisions specified in regulation 3(2)(a) to (g) as they apply in relation to an offence under Article 13 or 14, and

(ii) in paragraph (4) the references to "sale" are deemed to include references to "placing on the market";

(c) Article 30(8) (which relates to documentary evidence);

(**4**) OJ No. L.354, 31.12.2008, p.34