STATUTORY RULES OF NORTHERN IRELAND

2010 No. 338

FOOD

The Foodstuffs Suitable for People Intolerant to Gluten Regulations (Northern Ireland) 2010

Made - - - - 29th September 2010

Coming into operation 1st January 2012

The Department of Health, Social Services and Public Safety (**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(e), 16(2), 25(1)(a) 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 Foodstuffs Suitable for People Intolerant to Gluten Regulations (Northern Ireland) 2010 and come into operation on 1st January 2012.

Interpretation

2.—(1) In these Regulations—

"the Commission Regulation" means Commission Regulation (EC) No. 41/2009 concerning the composition and labelling of foodstuffs suitable for people intolerant to gluten(**4**);

(**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 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)

(**4**) OJ No. L16, 21.1.2009, p.3

"specified provision" means any provision of the Commission Regulation that is specified in Column 1 of the Schedule and whose subject-matter is described in Column 2 of the Schedule; and

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

(2) Subject to paragraph (3), any expression other than one defined in paragraph (1) that is used both in these Regulations and in the Order has the meaning it bears in the Order.

(3) Any expression used both in these Regulations and in the Commission Regulation has the meaning that it bears in the Commission Regulation.

Offences, penalties and execution and enforcement

3.—(1) Any person who contravenes any of the specified provisions is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each district council must execute and enforce these Regulations within its district.

Application of the specified provisions

4. For the purposes of these Regulations, the specified provisions apply in relation to foodstuffs for people intolerant to gluten that are placed on the retail market irrespective of whether they are in pre-packaged form.

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

5. 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 thereof shall be construed as a reference to these Regulations—

(a) Article 4 (presumptions that food intended for human consumption);

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

(c) Article 20 (defence of due diligence), with the modifications that paragraphs (2) to (4) apply in relation to an offence under regulation 3(1) as they apply in relation to an offence under Article 13 or 14 and that in paragraph (4)(b) the references to "sale or intended sale" include references to "labelling, advertising or presentation";

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

(e) Article 34(1) (obstruction etc. of officers);

(f) Article 34(2), with the modification that the reference to "any such requirement as is mentioned in paragraph (1)(b)" shall be deemed to be a reference to any such requirement as is mentioned in Article 34(1)(b) as applied by sub- paragraph (e);

(g) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by sub-paragraph (e); and

(h) Article 36(2) and (3), in so far as it relates to offences under Article 34(2) as applied by sub-paragraph (f).

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 29th September 2010.

L. Devlin
A senior officer of the Department of Health,
Social Services and Public Safety