STATUTORY RULES OF NORTHERN IRELAND

2010 No. 54

FOOD

The Fish Labelling Regulations (Northern Ireland) 2010

Made - - - -	*1st March 2010*
Coming into operation	*6th April 2010*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by Articles 15(1)(e) and (f), 16(2), 25(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**), as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

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(**4**), 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 Fish Labelling Regulations (Northern Ireland) 2010 and shall come into operation on 6th April 2010.

Interpretation

2.—(1) In these Regulations —

"Member State" means a Member State of the European Communities;

"Regulation 104/2000" means Council Regulation (EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products(**5**); and

(**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 the Legislative and Regulatory Reform Act 2006 (2006 c.51)
(**4**) 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)
(**5**) OJ No. L17, 21.1.2000, p.22. That Regulation was amended by the EU Act concerning the conditions of accession of the Czech Republic etc. (OJ No. L236, 23.9.2003, p.33)

"Regulation 2065/2001" means Commission Regulation (EC) No. 2065/2001 laying down detailed rules for the application of Council Regulation (EC) No. 104/2000 as regards informing consumers about fishery and aquaculture products(**6**).

(2) Any expressions used in these Regulations and in Regulation 104/2000 or Regulation 2065/2001 have the same meaning as they have in those Regulations.

(3) Any references to Regulation 104/2000 or Regulation 2065/2001 mean those Regulations as amended or corrected from time to time.

Offences relating to consumer information

3.—(1) Any person who, in contravention of Article 4(1) of Regulation 104/2000 (consumer information) as read with Regulation 2065/2001, offers for retail sale to the final consumer any of the products to which that Article applies shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any person who fails to comply with Article 8 of Regulation 2065/2001 (traceability and control) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Lists of commercial designations

4.—(1) The list of commercial designations which the United Kingdom is required to draw up and publish under Article 4(2) of Regulation 104/2000 is that set out in the table in the Schedule and accordingly, the commercial designations set out in that Schedule are names prescribed by law for the purposes of regulations 6(1), 7 and 8(a) of the Food Labelling Regulations (Northern Ireland) 1996(**7**).

(2) In relation to a species included both in the Schedule and in a list published in English under Article 4(2) of Regulation 104/2000 having effect in another Member State or another part of the United Kingdom, the commercial designation for that species in the list having effect in that other Member State or part of the United Kingdom shall be an alternative to the commercial designation for that species set out in the Schedule and shall be a name prescribed by law for the purposes set out in paragraph (1).

Omission of reference to the production method

5. In the case described in Article 4(2) of Regulation 2065/2001 (situation where it is obvious from commercial designation and catch area that the species is caught at sea) it shall not be a contravention of Article 4(1) of Regulation 104/2000 to offer for retail sale to the final consumer a product to which that Article applies without the product being marked or labelled with the production method.

Small quantities of products

6.—(1) For the purposes of Article 4(1) of Regulation 104/2000 as read with Article 7 of Regulation 2065/2001, the small quantity of products which may be sold directly to consumers shall be products to a value not exceeding 20 Euros for each purchase.

(2) For the purposes of this regulation, the reference to 20 Euros shall be taken to be a reference to the sterling equivalent of that number of Euros, converted by reference to the rate of conversion

(**6**) OJ No. L278, 23.10.2001, p.6. That Regulation was corrected by a Corrigendum (OJ No. L10, 12.1.2002, p.82 (2001/2065) and it was amended by the EU Act concerning the conditions of accession of the Czech Republic etc. (OJ No. L236, 23.9.2003, p.33) and by Commission Regulation (EC) No. 1792/2006 (OJ No. L362, 20.12.2006, p.1)

(**7**) S.R. 1996 No. 383; regulation 6(4) (which defines "prescribed by law" for the purposes of regulations 6(1), 7 and 8(a)) was inserted by S.R. 1998 No. 253

published annually on the first working day of the preceding September in the C series of the Official Journal of the European Communities or, if no rate is published in it on that day, the first rate published in it thereafter.

Additional information relating to the catch area

7. The indication of catch area required by Article 4(1)(c) of Regulation 104/2000 may, where the circumstances described in Article 5(1)(c) of Regulation 2065/2001 apply, indicate the various Member States or third countries in which the product was farmed.

Provisional commercial designations

8.—(1) For the purposes of Article 2 of Regulation 2065/2001 (provisional commercial designations), the Food Standards Agency ("the Agency") shall be the competent authority.

(2) The Agency shall draw up and publish a list of provisional commercial designations laid down pursuant to Article 2 of Regulation 2065/2001.

Enforcement

9. Each district council shall enforce and execute these Regulations in its district.

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

10. The following provisions of the Food Safety (Northern Ireland) Order 1991 ("the Order") shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or Part of the Order shall be construed as a reference to these Regulations and to those provisions of Regulation 104/2000 and Regulation 2065/2001 to which these Regulations relate —

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

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

(c) Article 20 (defence of due diligence) as it applies for the purposes of Article 13 or 14;

(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) insofar as it relates to offences under Article 34(1) as applied by sub-paragraph (e);

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

Revocation

11. The following Regulations are revoked —

(a) The Fish Labelling Regulations (Northern Ireland) 2003(**8**); and

(b) The Fish Labelling (Amendment) Regulations (Northern Ireland) 2006(**9**).

(**8**) S.R. 2003 No. 160
(**9**) S.R. 2006 No. 116

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 1st March 2010.

L.S.

Andrew McCormick
A senior officer of the Department of Health,
Social Services and Public Safety

SCHEDULE

Regulation 4

Commercial Designations

1. Subject to paragraphs 2 and 3, the commercial designation for any species of fish specified in column 2 of the following Table shall be a name specified for that species in the corresponding entry in column 1.

2. A customary name may be used for any species of fish which has been subjected to smoking or any similar process, unless the name of the species in column 2 of the Table is followed by an asterisk. In such cases the name used for the food when the fish is smoked shall be a name specified for that species in column 1 of the said Table preceded by the word "smoked".

3. Paragraph 1, as read with the Table, shall not apply to fish regulated by Council Regulation (EEC) No 2136/89 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products(**10**) (as amended by Commission Regulation (EC) No. 1181/2003(**11**) and Commission Regulation (EC) No. 1345/2008(**12**)) or Council Regulation (EEC) No. 1536/92 laying down common marketing standards for preserved tuna and bonito(**13**).

TABLE

Column 1 *Commercial designation*	*Column 2* *Species of fish*
Sea Fish	
African sole	*Solea senegalensis*
Alaska plaice	*Pleuronectes quadrituberculatus*
Alaska pollack *or* Alaska pollock *or* Pacific pollack *or* Pacific pollock	*Theragra chalcogramma*
Alaska pollock – see entry for Alaska Pollack *or* Alaska pollock *or* Pacific pollack *or* Pacific pollock	
Albacore tuna - see entry for Tuna *or* Tunny	
Amberjack – see entry for Horse Mackerel *or* Jack *or* Scad *or* Trevally	
American plaice	*Hippoglossoides platessoides*
Anchovy	All species of the family *Engraulidae*
Angler(fish) *or* Monk(fish)	*Lophiodes caulinaris* *Lophius americanus* *Lophius budegassa* *Lophius piscatorius*
Argentine	All species of the family *Argentinidae*

(**10**) OJ No. L212, 22.7.1989, p.79
(**11**) OJ No. L165, 3.7.2003, p.17
(**12**) OJ No. L348, 24.12.2008, p.76
(**13**) OJ No. L.163, 17.6.1992, p.1