STATUTORY RULES OF NORTHERN IRELAND

2010 No. 33

FOOD

The Food for Particular Nutritional Uses (Miscellaneous Amendments) Regulations (Northern Ireland) 2010

Made - - - - 15th February 2010

Coming into operation 15th March 2010

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 16(1), 25(1)(a) 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**).

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 Directive 2009/39/EC of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses(**4**) in specified statutory rules to be construed as references to that Directive as amended from time to time.

In accordance with Article 47(3A) of 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.

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(**5**), 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 Food for Particular Nutritional Uses (Miscellaneous Amendments) Regulations (Northern Ireland) 2010 and come into operation on 15th March 2010.

(**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)

(**4**) OJ No. L124, 20.5.2009, p.21

(**5**) OJ No. L31, 1.2.2002, p.1, as 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 – Part Four (OJ No. L188, 18.7.2009, p.14)

Interpretation

2. The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Food Labelling Regulations (Northern Ireland) 1996

3.—(1) The Food Labelling Regulations (Northern Ireland) 1996(**7**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation)—

(a) omit the definition of "Directive 89/398"(**8**);

(b) after the definition of "Directive 2000/13" insert—

> ""Directive 2009/39" means Directive 2009/39/EC of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses(**9**) as amended from time to time;".

(3) For regulation (3)(1)(iv) (exemptions), substitute—

"(iv) where applicable, the requirements of Directive 87/250, Directive 90/496, Directive 94/54, Directive 99/2 and Directive 2009/39 are met in respect of that food.".

Amendment of the Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007

4.—(1) The Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007(**10**) are amended in accordance with paragraphs , and .

(2) In regulation (2)(1) (interpretation), for the definition of "the Directive" substitute—

""the Directive" means Directive 2009/39 of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses as amended from time to time;".

(3) In regulation 3 (restrictions on sale) —

(a) for paragraph (1) substitute—

> "(1) A person who, in respect of a PNU food product of a particular type—
>
> (a) is a manufacturer or an importer referred to in Article 11 of the Directive, but
>
> (b) has failed to comply with—
>
> (i) a requirement to notify the competent authority, as referred to in paragraph (1)(a) or (1)(b) of that Article, or
>
> (ii) a requirement to produce anything to the competent authority, as referred to in paragraph (1)(c) of that Article,
>
> shall not sell a PNU food product of that type. "; and

(b) in paragraph (2)(b) for "Article 9" substitute "Article 11".

(4) In regulation 4(1) (declaration), for "Article 1(2)" substitute "Article 1(2) and (3)".

(**6**) 1954 c.33 (NI)
(**7**) S.R. 1996 No.383, amended by S.R. 1998 No.253, S.R. 1999 No.143, S.R. 2000 No.189 , S.R. 2000 No.303 and SR 2003 No. 448; there are other amending rules but none is relevant
(**8**) Council Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses (OJ No. L186, 30.6.1989, p.27)
(**9**) OJ No. L124, 20.5.2009, p.21
(**10**) S.R. 2007 No.60