STATUTORY RULES OF NORTHERN IRELAND

2008 No. 189

EUROPEAN COMMUNITIES

FOOD

The Olive Oil (Marketing Standards) Regulations (Northern Ireland) 2008

Made - - - -	*23rd April 2008*
Coming into operation	*20th June 2008*

The Department of Agriculture and Rural Development(**1**) is a designated Department(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to the common agricultural policy of the European Community.

A consultation has taken place, 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**).

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred by section 2(2) of the 1972 Act.

Citation and commencement

1. These Regulations may be cited as The Olive Oil (Marketing Standards) Regulations (Northern Ireland) 2008 and shall come into operation on 20th June 2008.

Interpretation

2.—(1) In these Regulations—

"authorised officer" means an officer of a district council authorised by that council in writing, either generally or specially, to act in matters of any specified kind or in any specified matter;

"blended oil" means a blend of relevant oil and other vegetable oils;

"the Department" means the Department of Agriculture and Rural Development;

(**1**) Formerly the Department of Agriculture: see S.I. 1999/283 (N.I.) Art. 3(4)
(**2**) S.I. 2000/2812
(**3**) 1972 c.68
(**4**) O.J. No. L31, 1.2.2002, p.1

"enforcement authority" shall be construed in accordance with regulation 3 of these Regulations;

"labelling" has the meaning given to it in Article 1(3)(a) of Directive 2000/13/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs(**5**);

"oil" (without more) means, except in regulation 4(1)(a) and (b), any oil referred to in Article 1(2) of Regulation 136/66;

"packaging" means packaging intended for consumers in the Member States and labels attached to such packaging;

"relevant oil" means the olive oils and olive-pomace oils referred to in points 1(a) and (b), 3 and 6 of the Annex to Regulation 136/66;

"retail stage" has the meaning given to it in Article 1(2) of Regulation 1019/2002;

"Regulation 136/66" means Regulation No. 136/66/EEC of the Council on the establishment of a common organisation of the market in oils and fats(**6**) as last amended by Council Regulation (EC) No. 865/2004(**7**);

"Regulation 2568/91" means Commission Regulation (EEC) No. 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis(**8**), as last amended by Commission Regulation (EC) No. 1989/2003(**9**);

"Regulation 1019/2002" means Commission Regulation (EC) No. 1019/2002 on marketing standards for olive oil(**10**) as last amended by Commission Regulation (EC) No. 1044/2006(**11**);

"Regulation 865/2004" means Council Regulation (EC) No. 865/2004 on the common organisation of the market in olive oil and table olives and amending Regulation (EEC) No. 827/68(**12**);

"sells" means, except in relation to regulation 4(1)(a), sells at the retail stage, and includes references to offering or exposing oil for sale and to processing oil for the purposes of sale;

"specified oil" means extra virgin olive oil and virgin olive oil.

Any reference in these Regulations (other than to this regulation and regulation 4) to an Article is a reference to an Article of Regulation 1019/2002.

Any other expressions used in these Regulations have, in so far as the context permits, the same meaning as in Regulation 136/66.

The Interpretation Act (Northern Ireland) 1954(**13**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Enforcement

3. These Regulations shall be enforced in Northern Ireland by each District Council within its district.

(**5**) O.J. L. 109, 6.5.2000, p.29
(**6**) O.J. L. 172, 30.9.66, p.3025
(**7**) O.J. L. 161, 30.4.2004, p.97
(**8**) O.J. L. 248, 5.9.91, p.1
(**9**) O.J. L. 295, 13.11.2003, p.57
(**10**) O.J. L. 155, 14.6.2002, p.27
(**11**) O.J. L. 187, 8.7.2006, p.20
(**12**) O.J. L. 206, 9.6.2004, p. 37
(**13**) 1954 c.33 (N.I.)

Offences relating to the packaging and selling of olive oil

4.—(1) A person shall be guilty of an offence if he—

(a) sells, at the retail stage or otherwise, any oil in contravention of Article 4.1 of Regulation 865/2004 (which provides that certain trade descriptions and definitions of oil shall, in relation to the marketing of oil, be compulsory) as read with the Annex to that Regulation and with Regulation 2568/91;

(b) sells any oil other than relevant oil in contravention of Article 4.2 of Regulation 865/2004 (which provides that only oil satisfying certain descriptions shall be marketed at the retail stage) as read with the Annex to that Regulation and with Regulation 2568/91;

(c) sells relevant oil in packaging which in contravention of Article 2 of Regulation 1019/2002 (which sets out rules for packaging oil)—

(i) exceeds a maximum capacity of five litres; or

(ii) is fitted with an opening system which can be sealed after the first time it is opened; or

(d) sells any relevant oil in contravention of Article 3 of Regulation 1019/2002 (which requires that the labelling of such oil shall bear information on the category of oil, in addition to the trade description).

(2) For the purposes of regulation 4(1)(a) and (b), "oil" means any of the descriptions of olive oils and olive-pomace oils referred to in Article 35 of Regulation 136/66 and described in the Annex to that Regulation as read with Regulation 2568/91.

Offences relating to the designation of origin

5.—(1) A person shall be guilty of an offence if he sells any relevant oil the packaging of which bears a designation of origin unless—

(a) the oil is specified oil; and

(b) the designation of origin does not contravene Article 4 (conditions for designation of origin labelling).

(2) A person who packages specified oil to which Article 9 (arrangements for approval of packaging establishments) applies shall be guilty of an offence if packaging takes place other than in an establishment which is approved in accordance with Article 9(2).

(3) A person who sells specified oil the labelling of which contravenes the final sentence of Article 9(2) shall be guilty of an offence.

(4) A person who operates an establishment which is the subject of an approval granted in accordance with regulation 10(1) shall be guilty of an offence if he—

(a) fails to comply with the undertaking given in respect of that establishment in accordance with Article 9(2)(b); or

(b) fails to keep a storage system for the purpose of checks as referred to in Article 9(2)(c).

Offences relating to optional indications on packaging

6.—(1) A person shall be guilty of an offence if he sells, on or after 20th June 2008, any relevant oil the labelling of which includes any optional indications referred to in Article 5 (conditions for the use of optional indications of the method of extraction, the organoleptic properties and the acidity of the relevant oil) in contravention of the requirements of Article 5(a), (b) or (d).

(2) A person shall be guilty of an offence if he sells, on or after 1st July 2008, any relevant oil the labelling of which includes any optional indications referred to in Article 5 in contravention of the requirements of Article 5(c).

Offences relating to blended oils and certain foods containing olive oil

7.—(1) A person shall be guilty of an offence if he sells any blended oil where the presence of relevant oil is highlighted on the labelling by images or graphics, but relevant oil does not account for more than 50% of the blend concerned;

(2) A person shall be guilty of an offence if he sells any blended oil where—

(a) the presence of relevant oil is highlighted on the labelling elsewhere than in the list of ingredients using words, images or graphics; and

(b) the labelling fails to bear the trade description and percentage of relevant oil as set out in Article 6(1) (which requires certain blended oil to contain a trade description and specify the percentage of oil in the blend) and, where olive-pomace oil is present, as set out in Article 6(3); or

(3) A person shall be guilty of an offence if he sells any foodstuff to which Article 6(2) (foods other than blended oil and products to which specific product rules apply) applies where—

(a) the presence of relevant oil is highlighted on the labelling elsewhere than in the list of ingredients, using words, images or graphics; and

(b) in contravention of Article 6(2) or (3), there is not stated, immediately following the trade description, the percentage of relevant oil.

Penalties

8. Any person guilty of an offence under regulation 4, 5, 6 or 7 shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Method of analysis of oil

9. Where, for the purpose of enforcing these Regulations, an analysis is made of any oil, the method, or methods, of such analysis shall be that, or those, prescribed by Regulation 2568/91.

Approval

10.—(1) An application for approval of an establishment pursuant to Article 9(2) may be made to the Department which, in accordance with the second indent of Article 9(2), shall determine whether or not that approval is to be granted and, if so, allocate an alphanumeric identification to the establishment.

(2) Following conviction for an offence under regulation 5(4) against which there is no successful appeal, the Department may serve a notice on the person who operates the establishment, suspending or withdrawing the approval of the establishment and its alphanumeric identification.

(3) A notice under paragraph (2) must be served within 6 months of—

(a) in the case of a conviction against which there is no appeal, the date on which the right to appeal against that conviction expires; and

(b) in the case of a conviction against which there is an unsuccessful appeal—

(i) if there is no right of appeal against the result of that unsuccessful appeal, the date of that result; and

(ii) if there is a right of appeal against that result but no appeal is made, the date on which that right of appeal expires.

(4) The Department may also withdraw the approval and allocation in question by agreement with the person who operates the establishment.