STATUTORY RULES OF NORTHERN IRELAND

2007 No. 352

FOOD

The Food (Suspension of the Use of E 128 Red 2G as Food Colour) Regulations (Northern Ireland) 2007

Made - - - -	*2nd August 2007*
Coming into operation-	*3rd August 2007*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972 (**2**) as read with paragraph 1A of Schedule 2 to that Act.

The Department of Health, Social Services and Public Safety has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of food (**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 any reference to Commission Regulation (EC) No. 884/2007 on emergency measures suspending the use of E 128 Red 2G as food colour(**4**) to be construed as a reference to that Regulation as amended from time to time.

Citation and commencement

1. These Regulations may be cited as the Food (Suspension of the Use of E 128 Red 2G as Food Colour) Regulations (Northern Ireland) 2007, and come into operation on 3rd August 2007.

Interpretation

2.—(1) In these Regulations—

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

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)
(**2**) 1972 c. 68; paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51)
(**3**) SI 2003/2901
(**4**) OJ No. L195/8

"the Commission Regulation" means Commission Regulation (EC) No. 884/2007 on emergency measures suspending the use of E 128 Red 2G as food colour;

(2) In these Regulations any reference to the Commission Regulation is a reference to the Commission Regulation as amended from time to time.

(3) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Northern Ireland) Assembly.

Suspension of activities involving the colour E128 Red 2G

3.—(1) Notwithstanding the provisions of the Colours in Food Regulations (Northern Ireland) 1996(**6**) any person who contravenes or fails to comply with the following provisions of the Commission Regulation shall be guilty of an offence—

(a) Article 1(1) (suspending the use of the colour E 128 Red 2G in food);

(b) Article 1(2) (suspending the placing on the market of food containing the colour E 128 Red 2G); or

(c) Article 1(3) (suspending the import of food containing the colour E 128 Red 2G).

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

Enforcement

4. It shall be the duty of each district council to enforce and execute these Regulations within its district.

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

5. The following provisions of the Food Safety (Northern Ireland) Order 1991(**7**) shall apply for the purposes of these Regulations with the modification that any reference in those provisions to that Order or Part thereof shall 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)(**8**), with the modifications that paragraphs (2) to (4) shall apply in relation to an offence under regulation 3(1)(b) 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" shall deemed to be references to "placing on the market";

(c) Article 33 (powers of entry);

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

(e) 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 (d);

(f) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by sub–paragraph (d);

(**5**) 1954 c.33 (N.I.)
(**6**) S.R.1996 No.49 to which there are amendments not relevant to these Regulations
(**7**) 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 No.482 and S.R. 2004 No.505
(**8**) Article 20 was amended by S.R. 2004 No.505