STATUTORY RULES OF NORTHERN IRELAND

2007 No. 60

FOOD

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

Made - - - - 2nd February 2007

Coming into operation 1st March 2007

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 (3), 26(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 the 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 Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007 and shall come into operation on 1st March 2007.

Interpretation

2.—(1) In these Regulations—

"the Agency" means the Food Standards Agency;

(**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. as last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p3) amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the Permanent Scientific Panels of the European Food Safety Authority (OJ No. L100, 8.4.2006, p3). By virtue of Regulation 5 of the Food Safety (Northern Ireland) Order 1991 (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004 No.482), with effect from 7th December 2004 the consultation requirement contained in Article 47(3) of the 1991 Order is disapplied in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002

"the Directive" means Council Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses;(**4**)

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

"PNU food" means a food for a particular nutritional use which—

(a) owing to its special composition or process of manufacture, is clearly distinguishable from food intended for normal consumption, and

(b) is sold in such a way as to indicate its suitability for its claimed particular nutritional purpose,

but does not fall within any of the following classifications—

(i) infant formulae and follow-on formulae,

(ii) processed cereal-based foods and baby foods for infants and young children,

(iii) food intended for use in energy-restricted diets for weight reduction,

(iv) dietary foods for special medical purposes,

(v) foods intended to meet the expenditure of intense muscular effort, especially for sportsmen, and

(vi) foods for persons suffering from carbohydrate-metabolism disorders (diabetes);

"particular nutritional use" means the fulfilment of the particular nutritional requirements of—

(a) certain categories of persons whose digestive processes are, or whose metabolism is, disturbed, or

(b) certain categories of persons whose physiological condition renders them able to obtain a special benefit from the controlled consumption of any substance in food, or

(c) infants or young children in good health; and

"sell" includes possess for sale and offer, expose or advertise (otherwise than by means of a label or wrapper) for sale.

(2) Other expressions used in these Regulations and in the Directive have the same meaning in these Regulations as they have in the Directive.

Restriction on sale

3.—(1) No person who, in respect of a PNU food product of a particular type—

(a) is a manufacturer or an importer referred to in Article 9 of the Directive, but

(b) has failed to comply with—

(i) a requirement to notify the competent authority, as referred to in paragraph 1 or 2 of that Article, or

(ii) a requirement to produce anything to the competent authority, as referred to in paragraph 3 of that Article,

shall sell a PNU food product of that type.

(2) For the purposes of paragraph (1) the competent authority is—

(a) in respect of PNU food manufactured in Northern Ireland, or imported into Northern Ireland from outside the United Kingdom, the Food Standards Agency;

(**4**) OJ No. L186, 30.6.89, p.27, as last amended as at the making of this instrument by Regulation (EC) No. 1882/2003 (OJ No. L284, 31.10.2003, p.1). Annex 1 to Council Directive 89/398/EEC was replaced by Directive 1999/41/EC (OJ No. L172, 8.7.99, p.38)