STATUTORY RULES OF NORTHERN IRELAND

2005 No. 288

FOOD

The Kava-kava in Food Regulations (Northern Ireland) 2005

Made - - - -	*7th June 2005*
Coming into operation	*11th July 2005*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 15(1)(a), (e) and (f), 25(1) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**), and of all other powers enabling it in that behalf, having had regard in accordance with Article 47(3A) of the said Order to relevant advice given by the Food Standards Agency, and after consultation both 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**) and in accordance with Article 47(3) and (3B) of the said Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Kava-kava in Food Regulations (Northern Ireland) 2005 and shall come into operation on 11th July 2005.

Interpretation

2. In these Regulations –

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**4**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**5**);

"EEA State" means a State, which is a Contracting Party to the EEA Agreement;

"free circulation in member States" has the same meaning as in Article 23.2, as read with Article 24, of the Treaty establishing the European Community;

"Kava-kava" means a plant, or any part of or an extract from a plant, belonging to the species *Piper methysticum*;

(**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. 1996/1633 (N.I.1 2) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28, paragraph 2 of Article 2 (regarding the definition of "food") was substituted by S.R. 2004 No. 482
(**3**) O.J. No. L31, 1.2.2002, p. 1
(**4**) O.J. No. L1, 3.1.1994, p. 3
(**5**) O.J. No. L1, 3.1.1994, p. 572

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

Prohibition on sale etc. of food consisting of or containing Kava-kava

3.—(1) Subject to paragraph (2), no person shall –

(a) sell, or

(b) possess for sale or offer, expose or advertise for sale, or

(c) import from a country outside the United Kingdom,

any food consisting of or containing Kava-kava.

(2) The prohibition imposed by paragraph (1) shall not apply where the food consisting of or containing Kava-kava is imported from an EEA State, if the food –

(a) originates in an EEA State, or

(b) originates outside the European Economic Area, but is in free circulation in member states,

and is being, or is to be, exported to an EEA State other than the United Kingdom.

Penalty and enforcement

4.—(1) Any person who contravenes regulation 3 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Each district council shall enforce and execute these Regulations within its district.

Application of various provisions of the Order

5.—(1) The following provisions of the Order shall apply for the purposes of these Regulations and any reference in them to the Order shall be construed as a reference to these Regulations –

(a) Articles 2(4) and 3 (extending meaning of "sale" etc.);

(b) Article 4 (presumptions that food intended for human consumption);

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

(d) Article 20 (defence of due diligence) as it applies for the purposes of Articles 7, 13 or 14;

(e) Article 21 (defence of publication in the course of business);

(f) Article 30(8) (which relates to documentary evidence);

(g) Article 34 (obstruction, etc., of officers);

(h) Article 36 (punishment of offences) in so far as it relates to offences under Article 34(1) and (2) as applied by sub-paragraph (g).

(2) Article 7(2) of the Order (which makes presumptions in the case of batches etc. of food) shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.

(3) Article 8 of the Order (inspection and seizure of suspected food) shall apply for the purposes of these Regulations as if food which it was an offence to sell under them was food which failed to comply with food safety requirements.

Revocation

6. The Kava-kava in Food Regulations (Northern Ireland) 2003(**6**) are hereby revoked.

(**6**) S.R. 2003 No. 10