STATUTORY RULES OF NORTHERN IRELAND

2004 No. 505

FOOD

The General Food Regulations (Northern Ireland) 2004

Made - - - -	*9th December 2004*
Coming into operation	*1st January 2005*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 15(1), 16(2), 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, being a Department designated(**3**) for the purposes of section 2(2) of the European Communities Act 1972(**4**) in relation to measures relating to food (including drink) including the primary production of food, in exercise (as respects regulations 8 to 17 of the following Regulations) of the powers conferred on it by the said section 2(2), after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**5**) 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, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the General Food Regulations (Northern Ireland) 2004, and come into operation on 1st January 2005.

Interpretation

2.—(1) In these Regulations –

"the Agency" means the Food Standards Agency;

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

(**1**) Formerly the Department of Health and Social Services; *see*S.I.1999/283 (N.I. 1), Article 3

(**2**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996 /1633 (N.I. 12) 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**) S.I.2003/2901

(**4**) 1972 c. 68

(**5**) O.J. No. L31, 1.2.2002, p. 1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L245, 29.9.2003, p. 4)

"Regulation 178/2002" means 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.

(2) Expressions used both in these Regulations and in Regulation (EC) No. 178/2002 have the same meaning in these Regulations as they have in that Regulation.

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

Competent authorities for the purposes of Regulation 178/2002

3.—(1) The following bodies are designated as the competent authorities for the purposes of the provisions of Regulation (EC) No. 178/2002 specified in paragraph (2) –

(a) the Agency,

(b) each district council in its district.

(2) Those provisions of Regulation (EC) No. 178/2002 referred to in paragraph (1) are –

(a) Article 14(8) (power of competent authorities to take appropriate measures to impose restrictions on the placing of food on the market or to require its withdrawal from the market in certain circumstances);

(b) Article 18(2) and (3) (competent authorities to whom food business operators must make information available on demand as to the traceability of food);

(c) Article 19 (food business operators to inform and collaborate with competent authorities to avoid or reduce risks posed by a food).

Requirements under Regulation (EC) No. 178/2002: offences

4. Any person who contravenes any of the following provisions of Regulation (EC) No. 178/2002 shall be guilty of an offence –

(a) Article 14(1) (food safety requirements);

(b) Article 16 (presentation) in so far as it relates to food;

(c) Article 18(2) or (3) (traceability) in so far as it relates to food business operators;

(d) Article 19 (responsibilities for food: food business operators).

Punishment of offences

5.—(1) A person guilty of an offence under regulation 4 shall be liable –

(a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;

(b) on summary conviction, to a fine not exceeding the relevant amount or to imprisonment for a term not exceeding six months or to both.

(2) In paragraph (1) "the relevant amount" means –

(a) in the case of an offence under regulation 4(a), £20,000;

(b) in any other case, the statutory maximum.

(**6**) 1954 c. 33 (N.I.)

Enforcement

6.—(1) Each district council shall enforce and execute these Regulations and the following provisions of Regulation (EC) No. 178/2002 in its district –

(a) Article 14;

(b) Article 16 in so far as it relates to food;

(c) Article 18 in so far as it relates to food business operators; and

(d) Article 19.

(2) The Agency shall also enforce and execute Articles 14 and 19 of Regulation (EC) No. 178/2002 and these Regulations in so far as they relate to those Articles as regards relevant food.

(3) In paragraph (2) "relevant food" means food in respect of which the Agency is specified in regulations made pursuant to Article 26(3) of the Order or made under the European Communities Act 1972 as being the enforcement authority.

Application of various provisions of the Order

7.—(1) The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the 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) with the modifications that paragraphs (2) to (4) shall apply in relation to an offence under regulation 4(a) or (b) as they apply in relation to an offence under Article 13 or 14, and in paragraph (4) the references to "sale" shall be deemed to include references to "placing on the market";

(c) Article 21 (defence of publication in the course of a business) with the modification that the words "for sale" shall be omitted;

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

(e) Article 36(1) (punishment of offences) in so far as it relates to offences under Article 34(1) as applied by paragraph (3);

(f) Article 36(2) and (3) in so far as it relates to offences under Article 34(2) as applied by paragraph (3).

(2) In the application of Article 33 of the Order (powers of entry) for the purposes of these Regulations, the references in sub-paragraph (1)(a) to the Order shall be construed as including references to Regulation (EC) No. 178/2002.

(3) The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order shall be construed as including a reference to Regulation (EC) No. 178/2002 and these Regulations –

(a) Article 4 (presumptions that food is intended for human consumption), with the modifications that the references to "sold" and "sale" shall be deemed to include references to "placed on the market" and "placing on the market" respectively;

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

(c) 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 (b).

(4) Article 35 of the Order (time limit for prosecutions) shall apply to offences under regulation 4 as it applies to offences punishable under Article 36(2) of the Order.