STATUTORY RULES OF NORTHERN IRELAND

2004 No. 469

FOOD

The Food Labelling (Amendment No. 2) Regulations (Northern Ireland) 2004

Made - - - -	*10th November 2004*
Coming into operation	*25th November 2004*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 15(1)(e) and (f), 16(1), 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(**3**) and after consultation both as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**4**) 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 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 Food Labelling (Amendment No. 2) Regulations (Northern Ireland) 2004, and shall come into operation on 25th November 2004.

Amendment of the Food Labelling Regulations (Northern Ireland) 1996

2. The Food Labelling Regulations (Northern Ireland) 1996(**5**) shall be amended in accordance with regulations 3 to 15.

3. In regulation 2(1) (interpretation) –

(a) after the definition of "advertisement" there shall be inserted –

""allergenic ingredient" means an ingredient referred to in Schedule AA1;";

(b) for the definition of "Directive 2000/13" there shall be substituted –

(**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. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 (c. 28)
(**3**) Article 47 (3A) and 3(B) were inserted by paragraph 40 of Schedule 5 to the Food standards Act 1999 (c. 28)
(**4**) O.J. No. L31, 1.2.2002, p. 1
(**5**) S.R. 1996 No. 383 the relevant amending Regulations are S.R.1998 Nos 253 and 359, S.R. 1999 Nos. 143 and 286, S.R. 2000 Nos. 189 and 303, and S.R. 2003 No. 448

""Directive 2000/13" means Directive 2000/13/EC of the European Parliament and of the Council(**6**) on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, as amended by –

(a) Commission Directive 2001/101/EC(**7**), which was itself amended by Commission Directive 2002/86/EC(**8**);

(b) the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the treaties on which the European Union is founded(**9**); and

(c) Directive 2003/89/EC of the European Parliament and of the Council(**10**),

and as read with Commission Directive 99/10/EC(**11**) providing for derogations from the provisions of Article 7 of Directive 2000/13/EC and Commission Directive 2002/67/EC(**12**) on the labelling of foodstuffs containing quinine, and of foodstuffs containing caffeine;".

4. In regulation 3(1A) (exemptions) after sub-paragraph (a) "or" shall be omitted and the following inserted –

(aA) regulation 44(a) in relation to a contravention of regulation 34B concerning any pre-packed food either contained in an indelibly marked glass bottle intended for re-use and having no label, ring or collar, or the largest surface of whose packaging has an area of less than ten square centimetres; or"

5. In regulation 13 (order of list of ingredients), for paragraph (5) there shall be substituted –

"(5) Where a food consists of, or contains, mixed fruit, vegetables or mushrooms which are used in proportions that are likely to vary and no particular fruit, vegetable or mushroom predominates significantly by weight, those ingredients may be grouped together in the list of ingredients under the designation "fruit", "vegetables" or "mushrooms" followed by the phrase "in varying proportions", followed by a list of the fruit, vegetables or mushrooms present; in such a case the total weight of the fruit, vegetables or mushrooms shall determine the order in which this entry appears in the list of ingredients.

(6) Where a food consists of, or contains, mixed spices or herbs and no particular spice or herb predominates significantly by weight, those ingredients may be listed otherwise than in descending order of weight if –

(a) in the case of a food which consists entirely of such a mixture, the heading of the list of ingredients includes or is accompanied by "in variable proportion" or other words indicating the nature of the order in which the ingredients are listed; and

(b) in the case of a food which contains such a mixture, that part of the list where the names of those ingredients appear is accompanied by "in variable proportion" or other words indicating the nature of the order in which those ingredients are listed.

(7) Ingredients constituting less than 2 per cent of the finished product may be listed in a different order after the other ingredients.

(**6**) O.J. No. L109, 6.5.2000, p. 29, as corrected by Corrigendum (O.J. No. L124, 25.5.2000, p. 66)
(**7**) O.J. No. L310, 28.11.2001, p. 19
(**8**) O.J. No. L305, 7.11.2002, p. 19
(**9**) O.J. No. L236, 23.9.2003, p. 33
(**10**) O.J. No. L308, 25.11.2003, p. 15
(**11**) O.J. No. L69, 16.3.1999, p. 22
(**12**) O.J. No. L191, 19.7.2002, p. 20

(8) In the case of ingredients which –

(a) are similar or mutually substitutable;

(b) are likely to be used in the preparation of a food without altering its nature or its perceived value;

(c) are not additives or allergenic ingredients or ingredients originating from an allergenic ingredient referred to in paragraphs 1 to 11 of Schedule AA1; and

(d) constitute less than 2 per cent of the finished product,

such ingredients may be referred to in the list of ingredients by means of the phrase "contains … and/or …", where at least one of no more than two such ingredients is present in the finished product.".

6. In regulation 14 (names of ingredients) –

(a) in paragraphs (4) and (9) there shall be inserted at the beginning "Subject to regulation 34B,";

(b) in paragraph (5) after "Subject to paragraph (5A) of this regulation" there shall be inserted "and regulation 34B,".

7. In regulation 15 (compound ingredients) –

(a) in paragraphs (3) and (4) there shall be inserted at the beginning "Subject to regulation 34B,";

(b) in paragraph (4) after sub-paragraph (a) "or" shall be omitted and for sub-paragraph (b) there shall be substituted –

"(b) subject to paragraphs (5) and (6), the composition of the compound ingredient is defined in Community legislation and the compound ingredient constitutes less than 2 per cent of the finished product, or

(c) subject to paragraphs (5) and (6), the compound ingredient consists of a mixture of spices or herbs or both and constitutes less than 2 per cent of the finished product.;

(c) after paragraph (4) there shall be inserted –

"(5) Subject to regulation 17, any additive which is an ingredient of such a compound ingredient as is mentioned in paragraph (4)(b) or (c) shall be named in the list of ingredients in accordance with paragraph (2).

(6) Where an ingredient of such a compound ingredient as is mentioned in paragraph (4)(b) or (c) has been irradiated, the name of that ingredient and the words required by paragraph 2 of Schedule 2 shall be given, except in the case of food which is prepared for patients requiring sterile diets under medical supervision.".

8. In regulation 17 (ingredients which need not be named) –

(a) there shall be inserted at the beginning "Subject to regulation 34B,";

(b) after paragraph (d) there shall be inserted –

(e) any substance which is not an additive but which is used in the same way and for the same purpose as a processing aid.".

9. In regulation 18 (foods which need not bear a list of ingredients) –

(a) in paragraph (1) there shall be inserted at the beginning "Subject to regulation 34B";

(b) in paragraph (3) for "regulations 12 to 17" there shall be substituted "regulations 12 to 17 and 34B".