STATUTORY RULES OF NORTHERN IRELAND

2004 No. 385

FOOD

The Genetically Modified Food Regulations (Northern Ireland) 2004

Made - - - - 10th September 2004

Coming into operation 8th October 2004

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), 16(2), 17(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 and after consultation both as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**3**) 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 Genetically Modified Food Regulations (Northern Ireland) 2004 and shall come into operation on 8th October 2004.

Interpretation

2.—(1) In these Regulations –

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

"Regulation 1829/2003" means Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed(**4**);

"specified Community provision" means a provision of Regulation 1829/2003 specified in Column 1 and described in Column 2 of the Schedule to these Regulations.

(2) In these Regulations –

(**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

(**3**) O.J. No. L31, 1.2.2002, p. 1

(**4**) O.J. No. L268, 18.10.2003, p. 1

(a) any reference to a numbered Article is a reference to the Article so numbered in Regulation 1829/2003;

(b) any reference to a numbered regulation is a reference to the regulation so numbered in these Regulations;

(c) any reference to a Schedule is a reference to the Schedule to these Regulations.

(3) Other expressions used in these Regulations and in Regulation 1829/2003 have the same meanings in these Regulations as in Regulation 1829/2003.

Submission of applications for authorisation to market products

3. The national competent authority for the purposes of Chapter II of Regulation 1829/2003 shall be the Food Standards Agency(**5**).

Enforcement

4. Each district council shall enforce and execute the provisions of these Regulations and Chapter II of Regulation 1829/2003 within its district.

Offences and penalties

5.—(1) Any person who, after the date on which these Regulations come into operation, contravenes the specified Community provision contained in Part I of the Schedule shall be guilty of an offence and liable –

(a) on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine or to both.

(2) Any person who, after the date on which these Regulations come into operation, contravenes any of the specified Community provisions contained in Part II of the Schedule shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

Application of various provisions of the Order

6.—(1) The following provisions of the Order shall apply for the purposes of these Regulations and Regulation 1829/2003 as they apply for the purposes of the Order –

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

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

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

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

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

(f) Article 34(1) (obstruction, etc., of officers);

(g) 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 paragraph (f);

(**5**) The address of the Food Standards Agency in Northern Ireland is 10B Clarendon Road, Belfast BT1 3BG

(h) Article 36(1) (punishment of offences) in so far as it relates to offences under Article 34(1) as applied by paragraph (f).

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

(2) Article 35 (time limit for prosecutions) shall apply to offences under regulation 5 as it applies to offences punishable under Article 36(2) of the Order.

Inspection, detention and seizure of suspected food

7.—(1) Article 7(2) of the Order shall apply for the purposes of these Regulations as if it read as follows –

"(2) Where any food which fails to comply with a specified Community provision within the meaning of the Genetically Modified Food Regulations (Northern Ireland) 2004 is part of a batch, lot or consignment of food of the same class or description, it shall be presumed for the purposes of Article 8 as applied by those Regulations until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with that specified Community provision.".

(2) Article 8 of the Order shall apply for the purposes of these Regulations as if it read as follows –

"**8.**—(1) An authorised officer may at all reasonable times inspect any food intended for human consumption which –

(a) has been placed on the market; or

(b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of placing it on the market;

and paragraphs (2) to (9) shall apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food fails to comply with a specified Community provision.

(2) The authorised officer may either –

(a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it –

(i) is not to be used for human consumption; and

(ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the food and remove it in order to have it dealt with by a justice of the peace;

and any person who knowingly contravenes the requirements of a notice under sub-paragraph (a) shall be guilty of an offence.

(3) Where the authorised officer gives notice under paragraph (2)(a), he shall, as soon as is reasonably practicable and in any event before the expiration of 21 days, determine whether or not he is satisfied that the food complies with the specified Community provisions and –

(a) if he is so satisfied, shall forthwith withdraw the notice;

(b) if he is not so satisfied, shall seize the food and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer seizes and removes food under paragraph (2)(b) or (3)(b), he shall inform the person in charge of the food of his intention to have it dealt with by a justice of the peace and –