STATUTORY RULES OF NORTHERN IRELAND

2003 No. 530

FOOD

Processed Cereal-based Foods and Baby Foods for Infants and Young Children Regulations (Northern Ireland) 2003

Made - - - - 12th December 2003

Coming into operation 6th March 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), 16(1), 25(1)(a) 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 Processed Cereal-based Foods and Baby Foods for Infants and Young Children Regulations (Northern Ireland) 2003 and shall come into operation on 6th March 2005.

Interpretation

2.—(1) In these Regulations –

"baby foods" means foods for particular nutritional use fulfilling the particular requirements of infants and young children in good health and intended for use by infants while they are being weaned, and by young children as a supplement to their diet or for their progressive adaptation to ordinary food, but excludes processed cereal-based foods;

(**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

"the Directive" means Commission Directive 96/5/EC(**4**) on processed cereal-based foods and baby foods for infants and young children, as amended by Commission Directive 1998/36/EC(**5**), Commission Directive 1999/39/EC(**6**) and Commission Directive 2003/13/EC(**7**);

"EEA Agreement" means the Agreement on the European Economic Area(**8**) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(**9**) signed at Brussels on 17th March 1993;

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

"infants" means children under the age of twelve months;

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

"pesticide residue" means the residue in processed cereal-based foods or baby foods of a plant protection product as defined in point 1 of Article 2 of Council Directive 91/414/EEC(**10**) concerning the placing of plant protection products on the market, including its metabolites and products resulting from its degradation or reaction;

"processed cereal-based foods" means foods for particular nutritional use within the categories specified in Part I of Schedule 1 fulfilling the particular requirements of infants and young children in good health and intended for use by infants while they are being weaned, and by young children as a supplement to their diet or for their progressive adaptation to ordinary food;

"sell" includes possess for sale and offer, expose or advertise for sale; and

"young children" means children aged between one and three years.

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

(3) Where any Schedule contains any note, the provisions of that Schedule shall be interpreted and applied in accordance with such note.

Exemption

3. These Regulations shall not apply to any baby food which is a milk intended for young children.

Restrictions on the sale of processed cereal-based foods and baby foods

4. No person shall sell any processed cereal-based food or baby food unless –

(a) it complies with the requirements of regulations 5 to 7 as to manufacture and composition; and

(b) it is labelled in accordance with regulation 8.

General requirements as to manufacture and composition

5.—(1) No processed cereal-based food or baby food shall be manufactured from any ingredient other than those whose suitability for particular nutritional use by infants and young children has been established by generally accepted scientific data.

(2) No processed cereal-based food or baby food shall contain any substance in such quantity as to endanger the health of infants or young children.

(**4**) O.J. No. L49, 28.2.96, p. 17
(**5**) O.J. No. L167, 12.6.98, p. 23
(**6**) O.J. No. L124, 18.5.1999, p. 8
(**7**) O.J. No. L41, 14.2.2003, p. 33
(**8**) O.J. No. L1, 3.1.94, p. 1
(**9**) O.J. No. L1, 3.1.94. p. 571
(**10**) O.J. No. L230, 19.8.91, p. 1

(3) The composition of a processed cereal-based food shall comply with the criteria specified in Part II of Schedule 1 as read with Schedule 2.

(4) The composition of a baby food shall comply with the criteria specified in Schedule 3.

Added nutritional substances and nutrients

6.—(1) In the manufacture of any processed cereal-based food or baby food, no nutritional substance shall be added other than a nutritional substance specified in Schedule 4.

(2) No processed cereal-based food or baby food shall contain any added nutrient specified in column 1 of Part I of Schedule 5 in an amount exceeding the maximum limit specified opposite that nutrient in column 2 of that Part.

(3) No processed cereal-based food or baby food specified in column 1 of Part II of Schedule 5 shall contain any added nutrient specified opposite that food in column 2 of that Part in an amount exceeding the maximum limit specified opposite that food in column 3 of that Part.

Pesticide residues

7.—(1) No processed cereal-based food or baby food shall contain –

(a) any pesticide residue of a pesticide specified in Schedule 6; or

(b) any omethoate, where it is a metabolite of a pesticide not specified in Schedule 6, or any product resulting from degradation or reaction of that metabolite,

at a level exceeding 0.003 mg/kg.

(2) No processed cereal-based food or baby food shall contain any pesticide residue of a pesticide specified in column 1 of Schedule 7 at a level exceeding that specified in column 2 of that Schedule in relation to that pesticide.

(3) No processed cereal-based food or baby food shall contain any pesticide residue of any individual pesticide which is not specified in Schedule 6 or column 1 of Schedule 7 at a level exceeding 0.01 mg/kg.

(4) The levels referred to in paragraphs (1) to (3) apply to the processed cereal-based food or baby food –

(a) manufactured as ready for consumption, or

(b) if it is not so manufactured, as reconstituted according to its manufacturer's instructions.

(5) Analytical methods for determining levels of pesticide residues for the purposes of this regulation shall be generally acceptable standardised methods.

Labelling

8.—(1) Without prejudice to the generality of Part II of the Food Labelling Regulations (Northern Ireland) 1996(**11**), processed cereal-based foods and baby foods shall be labelled with the following particulars –

(a) a statement as to the appropriate age (which shall be not less than four months) from which the food may be used, regard being had to its composition, texture or other particular properties;

(b) information as to the presence or absence of gluten if the age stated pursuant to sub-paragraph (a) is less than six months;

(**11**) S.R. 1996 No. 383; the relevant amending Regulations are S.R. 1998 No. 253, S.R .1999 Nos. 143, 244 and 286, S.R. 2000 Nos. 189 and 303, S.R. 2001 No. 45 and S.R. 2003 Nos.159 and 448

(c) the available energy value expressed in kJ and kcal, and the protein, carbohydrate and fat content, expressed in numerical form, per 100g or 100ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption;

(d) the average quantity, expressed in numerical form, per 100g or 100ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption, of each mineral substance and of each vitamin in respect of which a maximum or a minimum compositional requirement is specified in –

(i) Part II of Schedule 1 in the case of processed cereal-based foods; and

(ii) Schedule 3 in the case of baby foods; and

(e) if preparation of the food is necessary, appropriate instructions for preparation and a statement as to the importance of following those instructions.

(2) Subject to paragraph (1)(d), no processed cereal-based food or baby food shall be labelled with the average quantity of any nutrient specified in Schedule 4 unless –

(a) that average quantity is expressed in numerical form, per 100g or 100ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption; and

(b) in the case of a mineral substance or vitamin, it is a mineral substance or vitamin other than one referred to in paragraph (1)(d).

(3) Where, pursuant to paragraph (1)(d) or paragraph (2), any processed cereal-based food or baby food is labelled with the average quantity, per 100g or 100ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption, of any vitamin or mineral which is specified in column 1 of Schedule 8, the labelling of the food shall not express that average quantity as a percentage of the reference value specified in column 2 of Schedule 8 in relation to that vitamin or mineral unless the quantity present is equal to 15 per cent or more of the reference value.

Enforcement

9. Each district council shall enforce and execute these Regulations within its district.

Offence and penalty

10. If any person contravenes regulation 4 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence in relation to exports

11. In any proceedings for an offence under these Regulations it shall be a defence for the accused to prove –

(a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that the food complies with that legislation; and

(b) in the case of export to an EEA State, that the legislation complies with the provisions of the Directive(**12**).

(**12**) As adopted by the EEA Joint Committee Decisions No. 32/2002 (O.J. No. L154, 13.6.2002, p. 12) and 107/2003

Application of various provisions of the Order

12. 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 (extended 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 of the Order;

(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 paragraph (g).

Revocations

13. The Processed Cereal-based Foods and Baby Foods for Infants and Young Children Regulations (Northern Ireland) 1997(**13**), the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Amendment) Regulations (Northern Ireland) 1999(**14**) and the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Amendment) Regulations (Northern Ireland) 2000(**15**) are hereby revoked.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 12th December 2003.

L.S.

Denis McMahon
A Senior Officer of the
Department of Health, Social Services and
Public Safety

(**13**) S.R. 1997 No. 432
(**14**) S.R. 1999 No. 142
(**15**) S.R. 2000 No. 234