STATUTORY RULES OF NORTHERN IRELAND

2003 No. 301

FOOD

Specified Sugar Products Regulations (Northern Ireland) 2003

Made - - - -	*10th June 2003*
Coming into operation	*21st July 2003*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 15(1)(e), 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 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 Specified Sugar Products Regulations (Northern Ireland) 2003 and shall come into operation on 21st July 2003.

Interpretation

2. In these Regulations –

"the 1996 Regulations" means the Food Labelling Regulations (Northern Ireland) 1996(**4**);

"candy sugar" means crystalline sugar with crystals having any dimension greater than one centimetre;

"catering establishment" means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

(**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**) S.R. 1996 No. 383; the relevant amending Regulations are S.R. 1998 No. 253,

"EEA Agreement" means the Agreement on the European Economic Area(**5**) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(**6**) signed at Brussels on 17th March 1993;

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

"icing sugar" means fine particles of white sugar or extra-white sugar or mixtures thereof;

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

"preparation" includes manufacture and any form of processing or treatment;

"reserved description", as respects any specified sugar product, means any description specified in relation to that product in column 1 of Schedule 1 (as read with the notes relating to that Schedule), and the use of any such description in these Regulations shall be construed as meaning the product to which that description relates;

"sell" includes offer or expose for sale or have in possession for sale;

"specified sugar product" means any food specified in column 2 of Schedule 1 (as read with the Notes relating to that Schedule) but does not include any such food in the form of icing sugar, candy sugar or sugar in loaf form;

"sugar in loaf form" means a piece of agglomerated crystalline sugar, usually conically shaped, weighing not less than 250 grammes; and

"ultimate consumer" means any person who buys otherwise than –

(a) for the purpose of resale,

(b) for the purposes of a catering establishment, or

(c) for the purposes of a manufacturing business.

Scope of Regulations

3. These Regulations apply to specified sugar products, intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment.

Reserved descriptions

4. No person shall sell any food with a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless –

(a) such food is the specified sugar product to which the reserved description relates;

(b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food;

(c) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not and does not contain a specified sugar product; or

(d) such description, derivative or word is used in a customary name for another food product and is not liable to mislead the consumer.

Labelling and description of designated products

5.—(1) Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell any specified sugar product unless it is marked or labelled with the following particulars –

(a) the reserved description of the product; and

(**5**) O.J. No. L1, 3.1.94, p. 1
(**6**) O.J. No. L1, 3.1.94, p. 571

(b) in the case of sugar solution, invert sugar solution and invert sugar syrup, the dry matter and invert sugar content of the product.

Manner of marking or labelling

6. Regulations 35, 36(1) and (5) and 38 of the 1996 Regulations (which relate to the manner of marking or labelling of food) shall apply to the particulars with which a specified sugar product is required to be marked or labelled by regulation 5 as if they were particulars with which food is required to be marked or labelled by the 1996 Regulations.

Penalties and enforcement

7.—(1) Any person who contravenes regulation 4 or 5 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.

Defence in relation to exports

8. 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 Council Directive 2001/111/EC of the European Parliament and the Council relating to certain sugars intended for human consumption(**7**).

Application of various provisions of the Order

9. The following provisions of the Order shall apply for the purposes of these Regulations and any reference in those provisions to the Order shall be construed for the purposes of these regulations 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 Article 7, 13 or 14 of the Order;

(e) Article 21 (defence of publication in the course of a 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 and consequential amendments

10.—(1) The Specified Sugar Products Regulations (Northern Ireland) 1976 and the Specified Sugar Products (Amendment) Regulations (Northern Ireland) 1982(**8**) are hereby revoked.

(**7**) O.J. No. L10, 12.1.2002, p. 53. As to the incorporation of Council Directive 2001/111/EC into the Agreement on the European Economic Area see O.J. No. L298, 31.10.02, p. 10

(**8**) S.R.1982 No. 311

(2) In the 1996 Regulations –

(a) in regulation 4(2) (scope of Part II), sub-paragraph (a) shall be omitted;

(b) in regulation 49 (revocations and amendments), paragraph (2) shall be omitted;

(c) in Schedule 3 (generic names in list of ingredients) in the entry relating to glucose syrup there shall be inserted in column 3 (conditions of use of generic name) the following –

"The generic name may not be used where the glucose syrup contains fructose in a proportion of greater than 5% on a dry matter basis".

(3) The following entries relating to the Specified Sugar Products Regulations (Northern Ireland) 1976(**9**) shall be omitted –

(a) in the Food (Revision of Penalties and Mode of Trial) Regulations (Northern Ireland) 1987(**10**), in Schedule 1;

(b) in the Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991(**11**), in Schedule 1, Part I and in Schedules 2, 3 and 5;

(c) in the Food Safety (Exports) Regulations (Northern Ireland) 1991(**12**), in the Schedule;

(d) in the Food (Forces Exemptions) (Revocations) Regulations (Northern Ireland) 1992(**13**), in the Schedule;

(e) in the Miscellaneous Food Additives Regulations (Northern Ireland) 1996(**14**), in Schedule 9;

(f) in the Miscellaneous Food Additives (Amendment) Regulations (Northern Ireland) 1999(**15**), in regulation 14(1);

(g) in the Miscellaneous Food Additives (Amendment) Regulations (Northern Ireland) 2001(**16**), in regulation 6.

(4) In the Colours in Food Regulations (Northern Ireland) 1996(**17**), in regulation 12, paragraph (2) shall be omitted.

(5) In the Miscellaneous Food Additives Regulations (Northern Ireland) 1996 –

(a) in regulation 10, paragraph (3) shall be omitted;

(b) in Schedule 2, in Part B (sulphur dioxide and sulphites), in column 1 of the second table, for the reference to "Directive 73/437/EEC" there is substituted a reference to "Directive 2001/111/EC".

Transitional provision

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

(a) the food concerned was marked or labelled before 12th July 2004, and

(b) the matters constituting the alleged offence would not have constituted an offence under the Specified Sugar Products Regulations (Northern Ireland) 1976 as those Regulations stood immediately before the coming into operation of these Regulations.

(**9**) S.R.1976 No. 165
(**10**) S.R.1987 No. 38
(**11**) S.R.1991 No. 203
(**12**) S.R. 1991 No. 344
(**13**) S.R. 1992 No. 464
(**14**) S.R. 1996 No. 50
(**15**) S.R. 1999 No. 244
(**16**) S.R. 2001 No. 46
(**17**) S.R. 1996 No. 49

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 10th June 2003.

L.S.

W. B. Smith
A Senior Officer of the
Department of Health, Social Services and
Public Safety