STATUTORY RULES OF NORTHERN IRELAND

2002 No. 35

FOOD

Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2002

Made - - - - *8th February 2002*

Coming into operation *8th March 2002*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 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 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 Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2002 and shall come into operation on 8th March 2002.

Interpretation

2.—(1) In these Regulations—

"the Directive" means Council Directive 89/398/EEC on the approximation of the laws of the member States relating to foodstuffs intended for particular nutritional uses(**3**), as amended by Directive 1999/41/EC of the European Parliament and of the Council(**4**);

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

"PNU food" means a food for a particular nutritional use which—

(a) owing to its special composition or process of manufacture, is clearly distinguishable from food intended for normal consumption, and

(**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. L186, 30.6.89, p. 27
(**4**) O.J. No. L172, 8.7.1999, p. 38

(b) is sold in such a way as to indicate its suitability for its claimed particular nutritional purpose,

but does not fall within any of the following classifications—

(i) infant formulae and follow-on formulae,

(ii) processed cereal-based foods and baby foods for infants and young children,

(iii) food intended for use in energy-restricted diets for weight reduction,

(iv) dietary foods for special medical purposes,

(v) food intended to meet the expenditure of intense muscular effort, especially for sportsmen, and

(vi) foods for persons suffering from carbohydrate-metabolism disorders (diabetes);

"particular nutritional use" means the fulfilment of the particular nutritional requirements of—

(a) certain categories of persons whose digestive processes are, or whose metabolism is, disturbed, or

(b) certain categories of persons whose physiological condition renders them able to obtain a special benefit from the controlled consumption of any substance in food, or

(c) infants or young children in good health; and

"sell" includes possess for sale and offer, expose or advertise (otherwise than by means of a label or wrapper) for sale

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

Restriction on sale

3.—(1) No person who, in respect of a PNU food product of a particular type—

(a) is a manufacturer or an importer referred to in Article 9 of the Directive, but

(b) has failed to comply with—

(i) a requirement to notify the competent authority, as referred to in paragraph 1 or 2 of that Article, or

(ii) a requirement to produce anything to the competent authority, as referred to in paragraph 3 of that Article,

shall sell a PNU food product of that type

(2) For the purposes of paragraph (1) the competent authority is the Food Standards Agency.

Enforcement

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

Offences and penalties

5. If any person without reasonable cause contravenes regulation 3(1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Application of provisions of the Order

6. 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—