STATUTORY RULES OF NORTHERN IRELAND

2000 No. 189

FOOD

Genetically Modified and Novel Foods (Labelling) Regulations (Northern Ireland) 2000

Made - - - -	*22nd May 2000*
Coming into operation	*3rd July 2000*

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, 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 and after consultation in accordance with Article 47(3) of the said Order with such organisations as appear to it to be representative of interests likely to be substantially affected by the Regulations, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Genetically Modified and Novel Foods (Labelling) Regulations (Northern Ireland) 2000 and shall come into operation on 3rd July 2000.

Interpretation

2.—(1) In these Regulations—

"biscuits" includes wafers, rusks, oatcakes and matzos;

"confectionery product" means any item of chocolate confectionery or sugar confectionery;

"Directive 79/112" means Council Directive 79/112/EEC(**3**) on the approximation of the laws of the member States relating to the labelling, presentation and advertising of foodstuffs, as amended (in so far as is relevant to these Regulations) by Council Directive 86/197/EEC(**4**) and Council Directive 89/395/EEC(**5**);

"edible ice" includes ice-cream, water ice and fruit ice, whether alone or in combination, and any similar food;

(**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. L33, 8.2.79, p. 1
(**4**) O.J. No. L144, 29.5.86, p. 38
(**5**) O.J. No. L186, 30.6.89, p. 17

"fancy confectionery product" means any confectionery product in the form of a figure, animal, cigarette or egg or in any other fancy form;

"flour confectionery" means any cooked food which is ready for consumption without further preparation (other than reheating), of which a characterising ingredient is ground cereal, including shortbread, sponges, crumpets, muffins, macaroons, ratafias, pastry and pastry cases, and also includes meringues, petits fours and uncooked pastry and pastry cases, but does not include bread, pizzas, biscuits, crispbread, extruded flat bread or any food containing a filling which has as an ingredient any cheese, meat, offal, fish, shellfish, vegetable protein material or microbial protein material;

"the GMO particulars" means the additional specific labelling particulars required by Article 2(3) of Regulation 1139/98 and Articles 2 and 4 of Regulation 50/2000;

"novel food", "novel food ingredient" and "places on the market" have the same meaning in these Regulations as they have in Regulation 258/97;

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

"prepacked for direct sale" means—

(a) in relation to a food other than flour confectionery, bread and edible ices, prepacked by a retailer for sale by him on the premises where the food is packed or from a vehicle or stall used by him, and

(b) in relation to flour confectionery, bread and edible ices, prepacked by a retailer for sale as in sub-paragraph (*a*), or prepacked by the producer of the food for sale by him either on the premises where the food is produced or on other premises from which he conducts business under the same name as the business conducted on the premises where the food is produced,

and in this definition, "premises" includes any ship or aircraft;

"preparation", in relation to food, includes manufacture and any form of processing or treatment;

"Regulation 258/97" means Regulation (EC) No. 258/97 of the European Parliament and of the Council(**6**) concerning novel foods and novel food ingredients;

"Regulation 1139/98" means Council Regulation (EC) No. 1139/98(**7**) (as corrected(**8**)) concerning the compulsory indication, on the labelling of certain foodstuffs produced from genetically modified organisms, of particulars other than those provided for in Directive 79/112/EEC, as amended by Commission Regulation (EC) No. 49/2000(**9**);

"Regulation 50/2000" means Commission Regulation (EC) No. 50/2000(**10**) (as corrected(**11**)) on the labelling of foodstuffs and food ingredients containing additives and flavourings that have been genetically modified or have been produced from genetically modified organisms;

"sell" includes offer or expose for sale and have in possession for sale.

(2) Other expressions used both in these Regulations and in Regulation 1139/98 or Regulation 50/2000 have the same meaning in these Regulations as they have in the Regulation concerned.

(3) Food shall be regarded as prepacked for the purposes of these Regulations if—

(a) it is ready for sale to the final consumer or to a mass caterer, and

(b) it is—

(**6**) O.J. No. L43, 14.2.97, p. 1
(**7**) O.J. No. L159, 3.6.98, p. 4
(**8**) O.J. No. L190, 4.7.98, p. 86
(**9**) O.J. No. L6, 11.1.2000, p. 13
(**10**) O.J. No. L6, 11.1.2000, p. 15
(**11**) O.J. No. L47, 19.2.2000, p. 34

(i) put into packaging before being offered for sale in such a way that the food, whether wholly or only partly enclosed, cannot be altered without opening or changing the packaging, or

(ii) wholly enclosed in packaging before being offered for sale and the food is intended to be cooked without opening the packaging,

but food shall not be regarded as prepacked for the purposes of these Regulations if it comprises an individually wrapped sweet or chocolate which is not enclosed in any further packaging and which is not intended for sale as an individual item.

Food to which Regulation 1139/98 or Regulation 50/2000 applies

Exemptions

3.—(1) Subject to paragraph (2), these Regulations shall not apply in respect of any food brought into Northern Ireland—

(a) from a member State (other than the United Kingdom), or

(b) from another part of the United Kingdom,

in which it was lawfully sold, having been produced in a member State, or in which it was in free circulation and lawfully sold, if the requirements of Regulation 1139/98 or Regulation 50/2000 (as applicable), as read in each case with Directive 79/112, are met in respect of that food.

(2) Nothing in paragraph (1) shall prevent the enforcement of regulation 7(*c*).

(3) For the purposes of paragraph (1), "free circulation" has the same meaning as in Article 23(2) of the Treaty establishing the European Community.

(4) Any prepacked 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, need not be marked or labelled with the GMO particulars.

Manner of marking or labelling: general requirement

4. When any food other than food to which regulation 5 applies is sold, any particulars with which it is required to be marked or labelled by Regulation 1139/98 or Regulation 50/2000 shall appear—

(a) on the packaging,

(b) on a label attached to the packaging, or

(c) on a label which is clearly visible through the packaging,

save that where the sale is otherwise than to the final consumer, such particulars may, alternatively, appear only on the commercial documents relating to the food where it can be guaranteed that such documents, containing all such particulars, either accompany the food to which they relate or were sent before, or at the same time as, delivery of the food.

Manner of marking or labelling: special rules

5.—(1) This regulation applies to—

(a) food which is not prepacked;

(b) food which is prepacked for direct sale; and

(c) any individually wrapped fancy confectionery product which is not enclosed in any further packaging and which is intended for sale as a single item.

(2) When any food to which this regulation applies is sold to the final consumer, any particulars with which it is required to be marked or labelled by Regulation 1139/98 or Regulation 50/2000 shall, except as provided in paragraph (3), appear—

(a) on a label attached to the food, or

(b) on a menu, notice, ticket or label which is readily discernible by an intending purchaser at the place where he chooses that food.

(3) In any case where food—

(a) is food to which the labelling requirements of Regulation 1139/98 or Regulation 50/2000 apply,

(b) is—

(i) not prepacked, or

(ii) prepacked for direct sale, and

(c) is sold to the final consumer at appropriate premises,

use of alternative labelling in place of the GMO particulars shall not alone be treated as a contravention of those labelling requirements and for this purpose alternative labelling is used where, instead of the particulars referred to in Article 2(3) of Regulation 1139/98 or in Articles 2 and 4 of Regulation 50/2000 appearing in the manner specified in paragraph (2)(*a*) or (*b*), alternative particulars are displayed in accordance with paragraph (4).

(4) Alternative particulars are displayed in accordance with this paragraph in relation to any food referred to in paragraph (3) if there appears on a menu, notice, ticket or label which is readily discernible by an intending purchaser and which is located at the place at the premises where he chooses that food—

(a) in the case of food to which the labelling requirements of Regulation 1139/98 apply, indications to the effect that some of the food sold at those premises contains ingredients produced from genetically modified soya beans or maize, or both, as the case may be, and that further information is available from the staff; and

(b) in the case of food to which the labelling requirements of Regulation 50/2000 apply, indications to the effect that some of the food sold at those premises contains additives or flavourings, or both, as the case may be, produced from a genetically modified organism, and that further information is available from the staff.

(5) In this regulation, "premises" includes any ship or aircraft and "appropriate premises" means premises where—

(a) the staff provide clarification at the request of an intending purchaser as to whether—

(i) particular food sold at those premises, other than food falling within Article 1(2) or 2(2) of Regulation 1139/98, is produced in whole or in part from a genetically modified product referred to in Article 1(1) of that Regulation, and

(ii) particular food sold at those premises contains additives or flavourings produced in whole or in part from a genetically modified organism; and

(b) there is an established procedure at those premises for keeping staff informed of that information.

(6) Where any food to which this regulation applies is sold otherwise than to the final consumer, the particulars with which it is required to be marked or labelled by Regulation 1139/98 or Regulation 50/2000 shall appear—

(a) on a label attached to the food,

(b) on a ticket or notice which is readily discernible by the intending purchaser at the place where he chooses the food, or