STATUTORY RULES OF NORTHERN IRELAND

1999 No. 383

FOOD

Spreadable Fats (Marketing Standards) Regulations (Northern Ireland) 1999

Made - - - -	*14th September 1999*
Coming into operation	*1st November 1999*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1), 16(2), 25(1) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**1**) 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 these Regulations, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Spreadable Fats (Marketing Standards) Regulations (Northern Ireland) 1999 and shall come into operation on 1st November 1999.

Interpretation

2.—(1) In these Regulations—

"the Commission Regulation" means Commission Regulation (EC) No. 577/97(**2**) laying down certain detailed rules for the application of the Council Regulation and of Council Regulation (EEC) No. 1898/87 on the protection of designations used in the marketing of milk and milk products, as amended by Commission Regulation (EC) No. 1278/97(**3**), Commission Regulation (EC) No. 2181/97(**4**), Commission Regulation (EC) No. 623/98(**5**), Commission Regulation (EC) No. 1298/98(**6**), Commission Regulation (EC) No. 2521/98(**7**) and Commission Regulation (EC) No. 568/1999(**8**);

(**1**) S.I.1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12). See Article 2(2) for the definition of "regulations"
(**2**) O.J. No. L87, 2.4.97, p. 3
(**3**) O.J. No. L175, 3.7.97, p. 6
(**4**) O.J. No. L299, 4.11.97, p. 1
(**5**) O.J. No. L85, 20.3.98, p. 3
(**6**) O.J. No. L180, 24.6.98, p. 5
(**7**) O.J. No. L315, 25.11.98, p. 12
(**8**) O.J. No. L70, 17.3.99, p. 11

"Community provision" means a provision of the Council Regulation or the Commission Regulation which is referred to in column 1 of Schedule 1, as read with any supplementary provision referred to in column 2 thereof opposite the reference in column 1;

"the Council Regulation" means Council Regulation (EC) No. 2991/94(**9**) laying down standards for spreadable fats;

"EEA Agreement" means the Agreement on the European Economic Area(**10**) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(**11**) signed at Brussels on 17th March 1993;

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

"member State" means a member State of the European Community;

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

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

"sell by retail" means sell to a person buying otherwise than for the purpose of re-sale;

"vitamin A" means vitamin A present as such or as its esters and includes beta-carotene on the basis that 6 micrograms of beta-carotene or 12 micrograms of other biologically active carotenoids equal 1 microgram of retinol equivalent;

"vitamin D" means the anti-rachitic vitamins.

(2) Other expressions used both in these Regulations and in the Council Regulation or the Commission Regulation have the same meaning in these Regulations as they have in the Council Regulation or the Commission Regulation.

Exemptions

3.—(1) Except where paragraph (2) applies, unless and until there is a decision by the EEA Joint Committee under Article 98 of the EEA Agreement to amend it to refer to the Council Regulation and the Commission Regulation, these Regulations shall not apply in respect of any spreadable fat to which the EEA Agreement applies and which—

(a) is brought into Northern Ireland—

(i) from an EEA State (other than a member State) in which it was lawfully produced and sold; or

(ii) from another part of the United Kingdom if that spreadable fat was brought there from such an EEA State; and

(b) is suitably labelled to indicate the nature of the spreadable fat.

(2) Regulation 4 shall not apply in respect of any margarine which—

(a) is brought into Northern Ireland—

(i) from an EEA State (other than the United Kingdom) in which it was lawfully produced and sold;

(ii) from a member State (other than the United Kingdom) in which it was in free circulation and lawfully sold; or

(iii) from another part of the United Kingdom in which it was lawfully produced and sold or in which it was in free circulation and lawfully sold; and

(b) is suitably labelled to indicate the nature of the margarine

(**9**) O.J. No. L316, 16.9.94, p. 2
(**10**) O.J. No. L1, 3.1.94, p. 1
(**11**) O.J. No. L1, 3.1.94, p. 571

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

Vitamin content of margarine

4.—(1) Any margarine sold by retail shall contain in every 100 grams of such margarine—

(a) not less than 800 micrograms and not more than 1000 micrograms of vitamin A, and

(b) not less than 7£05 micrograms and not more than 8.82 micrograms of vitamin D,

and a proportionate amount in any part of 100 grams.

(2) No person shall sell by retail any margarine in contravention of this regulation.

Enforcement

5. These Regulations and the Community provisions shall be enforced and executed by each district council within its district.

Offences and penalty

6. If any person contravenes—

(a) regulation 4, or

(b) any Community provision,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence in relation to exports

7. In any proceedings under regulation 6(b) it shall be a defence for the person charged 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 it complies with that legislation; and

(b) that the legislation complies with the Council Regulation and the Commission Regulation in the case of—

(i) export to a member State; or

(ii) where there is a decision of the EEA Joint Committee under Article 98 of the EEA Agreement to amend it to refer to the Council Regulation and the Commission Regulation, export to an EEA State which is not a member State.

Application of provisions of the Order

8.—(1) 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;

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

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