STATUTORY RULES OF NORTHERN IRELAND

1999 No. 143

FOOD

Food Labelling (Amendment) Regulations (Northern Ireland) 1999

Made - - - -	*22nd March 1999*
Coming into operation	*23rd March 1999*

The Department of Health and Social Services and the Department of Agriculture being the Departments concerned(**1**) in exercise of the powers conferred on them by Articles 15(1)(e) and (f), 16, 17, 25(1) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**) and of all other powers enabling them in that behalf and after consultation in accordance with Article 47(3) of that Order with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food Labelling (Amendment) Regulations (Northern Ireland) 1999 and shall come into operation on 23rd March 1999.

Amendment of the Food Labelling Regulations (Northern Ireland) 1996

2. The Food Labelling Regulations (Northern Ireland) 1996(**3**) shall be amended in accordance with regulations 3 to 12.

3. In regulation 2(1) (interpretation)—

(a) after the definition of "food for a particular nutritional use" there shall be inserted—

> ""the GMO particulars" means the additional specific labelling particulars required by Article 2(3) of Regulation 1139/98;";

(b) after the definition of "recommended daily allowance" there shall be inserted—

> ""Regulation 1139/98" means Council Regulation (EC) No. 1139/98(**4**) (as corrected(**5**)) concerning the compulsory indication, on the labelling of certain

(**1**) See Article 2(2) of S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) for the definitions of "the Department concerned" and "regulations"
(**2**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12)
(**3**) S.R. 1996 No. 383; the relevant amending Regulations are S.R. 1998 No. 253
(**4**) O.J. No. L159, 3.6.98, p. 4
(**5**) O.J. No. L190, 4.7.98, p. 86

foodstuffs produced from genetically modified organisms, of particulars other than those provided for in Directive 79/112/EEC;".

4. In regulation 3(1)(iv) (exemptions), for "and Directive 94/54" there shall be substituted ", Directive 94/54 and Regulation 1139/98".

5. In regulation 26 (small packages and certain indelibly marked bottles)—

(a) in paragraph (1), for the words from "by virtue of" to the end there shall be substituted "—

(a) by virtue of these Regulations be marked or labelled with—

(i) any of the particulars specified in regulation 5 except the name of the food and, unless the food is not required to be marked or labelled with such an indication, the appropriate durability indication, or

(ii) any of the particulars specified in regulations 33 and 34, where but for this regulation they would otherwise be required, or

(b) be marked or labelled with the GMO particulars, where but for this regulation they would otherwise be required.";

(b) in paragraph (3), for "particulars specified in regulations 32, 33 and 34" there shall be substituted "other particulars mentioned in paragraph (3A)";

(c) after paragraph (3) there shall be inserted—

"(3A) The other particulars for the purposes of paragraph (3) are those specified in regulations 32, 33 and 34 and, in the case of any food to which paragraph (1) applies, the GMO particulars.".

6. In regulation 35 (general requirement as to manner of marking or labelling), after "by these Regulations" there shall be inserted "or by Regulation 1139/98".

7. In regulation 36 (manner of marking or labelling in the case of food to which regulation 23 or 27 applies)—

(a) in paragraph (1)—

(i) after "by these Regulations" there shall be inserted "or by Regulation 1139/98";

(ii) after "paragraph (2)" there shall be inserted "or (4A)";

(b) in paragraph (2), after "use of alternative labelling" there shall be inserted "relating to irradiation";

(c) after paragraph (4) there shall be inserted—

"(4A) In any case where food—

(a) is food to which the labelling requirements of Regulation 1139/98 apply;

(b) is—

(i) not prepacked, or

(ii) prepacked for direct sale, and

(c) is sold to the ultimate 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 that Regulation appearing in the manner specified in paragraph (1)(a) or (b) of this regulation, alternative particulars are displayed in accordance with paragraph (4B).

(4B) Alternative particulars are displayed in accordance with this paragraph in relation to any food referred to in paragraph (4A) 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, 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.

(4C) In paragraph (4A)(c) "appropriate premises" means premises where—

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

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

8. In regulation 38(1) (intelligibility of marking or labelling), after "by these Regulations" there shall be inserted "or by Regulation 1139/98".

9. In regulation 44 (offences and penalties), for the words from paragraph (e) to the end there shall be substituted—

"(e) being a person other than whichever of—

(i) the manufacturer,

(ii) the packer, or

(iii) the seller established within the European Community,

who was originally responsible for so marking the food, removes or alters the appropriate durability indication relating to that food, or

(f) sells any food to which the labelling requirements of Regulation 1139/98 apply which is not marked or labelled with the GMO particulars, except in the case of any food to which regulation 36(4A) applies and in respect of which alternative particulars are displayed in accordance with regulation 36(4B),

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.".

10. In regulation 47(b) (defence in relation to exports), for "and Directive 94/54" there shall be substituted ", Directive 94/54 and Regulation 1139/98".

11. For regulation 48 (application of various provisions of the Order) there shall be substituted—

"**Application of various provisions of the Order**

48.—(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 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 (offence 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;