STATUTORY RULES OF NORTHERN IRELAND

1998 No. 253

FOOD

Food Labelling (Amendment) Regulations (Northern Ireland) 1998

Made - - - -	*21st July 1998*
Coming into operation	*7th September 1998*

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(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 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) 1998 and shall come into operation on 7th September 1998.

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 16.

3. In regulation 2(1) (interpretation) after the definition of "confectionery product" there shall be inserted—

> ""Directive 79/112" means Council Directive 79/112/EEC(**4**) on the approximation of the laws of the member States relating to the labelling, presentation and advertising of foodstuffs, as read in accordance with Schedule A1;

(**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" and with respect to the powers conferred on each Department jointly by virtue of those definitions
(**2**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12)
(**3**) S.R. 1996 No. 383
(**4**) O.J. No. L33, 8.2.79, p. 1

"Directive 87/250" means Commission Directive 87/250/EEC(**5**) on the indication of alcoholic strength by volume in the labelling of alcoholic beverages for sale to the ultimate consumer;

"Directive 89/398" means Council Directive 89/398/EEC(**6**) on the approximation of the laws of the member States relating to foodstuffs intended for particular nutritional uses;

"Directive 90/496" means Council Directive 90/496/EEC(**7**) on nutrition labelling for foodstuffs;

"Directive 94/54" means Commission Directive 94/54/EEC(**8**) concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Directive 79/112, as amended by Council Directive 96/21/EC(**9**);".

4. In regulation 3 (exemptions) for paragraph (1) there shall be substituted—

"(1) Subject to paragraph (1A), these Regulations shall not apply in respect of—

(a) any food to which the provisions of the EEA Agreement apply brought into Northern Ireland from an EEA State in which it was lawfully produced and sold;

(b) any food lawfully produced in another member State brought into Northern Ireland from a member State in which it was lawfully sold; or

(c) any food lawfully produced outside the European Community brought into Northern Ireland from a member State in which it was in free circulation and lawfully sold,

if—

(i) the requirements of Article 2 of Directive 79/112 are met in respect of that food;

(ii) that food is marked or labelled, in a language easily understood by the consumer, with the particulars provided for in Articles 3 and 4(2) of that Directive;

(iii) the name of the food and any other descriptive information accompanying it is in accordance with Article 5(1) of that Directive; and

(iv) where applicable, the requirements of Directive 87/250, Directive 89/398, Directive 90/496 and Directive 94/54 are met in respect of that food.

(1A) Nothing in paragraph (1) shall prevent the enforcement of—

(a) regulation 44(*a*) in relation to a contravention of regulation 31; or

(b) regulation 44(*c*), (*d*) or (*e*).".

5. In regulation 4(2) (scope of Part II) in sub-paragraph (*l*) for the words from "Council Regulation" to the end there shall be substituted "Council Regulation (EC) No. 2200/96(**10**) on the common organisation of the market in fruit and vegetables".

6. In regulation 5 (general labelling requirement) there shall be inserted after paragraph (*b*)—

"(bA) the quantity of certain ingredients or categories of ingredients;".

7. In regulation 6 (name prescribed by law)—

(a) in paragraph (3) there shall be inserted at the end "unless such qualification is prohibited";

(**5**) O.J. No. L113, 30.4.87, p. 57
(**6**) O.J. No. L186, 30.6.89, p. 27
(**7**) O.J. No. L276, 6.10.90, p. 40
(**8**) O.J. No. L300, 23.11.94, p. 14
(**9**) O.J. No. L88, 5.4.96, p. 5
(**10**) O.J. No. L297, 2.11.96, p. 1

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

"(4) In paragraph (1) and in regulations 7 and 8(*a*) and Schedule 1, "prescribed by law" means prescribed by European Community law or, in the absence of such law, by law in Northern Ireland.".

8. In regulation 18(1) (foods which need not bear a list of ingredients)—

(a) in sub-paragraph (*e*), the words from "any food" to "including" shall be omitted;

(b) there shall be inserted after sub-paragraph (*f*)—

";

(g) any food consisting of a single ingredient, where—

(i) the name of the food is identical with the name of the ingredient; or

(ii) the name of the food enables the nature of the ingredient to be clearly identified.".

9. There shall be substituted for regulation 19 (ingredients given special emphasis: indication of minimum or maximum percentage of ingredients) the following regulation—

*"**Quantities of certain ingredients or categories of ingredients***

Indication of quantities of certain ingredients or categories of ingredients

19.—(1) Subject to paragraph (2), the quantity of an ingredient or category of ingredients used in the preparation of a food shall be indicated where—

(a) that ingredient or category of ingredients appears in the name of the food or is usually associated with that name by the consumer;

(b) that ingredient or category of ingredients is emphasised on the labelling in words, pictures or graphics; or

(c) that ingredient or category of ingredients is essential to characterise a food and to distinguish it from products with which it might be confused because of its name or appearance.

(2) Paragraph (1) shall not apply—

(a) in respect of an ingredient or category of ingredients —

(i) the drained net weight of which is indicated in accordance with Article 8(4) of Directive 79/112;

(ii) the quantities of which are already required to be given on the labelling under European Community provisions;

(iii) which is used in small quantities for the purposes of flavouring; or

(iv) which, though it appears in the name of the food, is not such as to govern the choice of the consumer because the variation in quantity is not essential to characterise the food or does not distinguish it from similar foods;

(b) where specific European Community provisions stipulate precisely the quantity of an ingredient or category of ingredients without providing for the indication thereof on the labelling; or

(c) in the cases referred to in regulation 13(5).

(3) The indication of quantity of an ingredient or category of ingredients required by paragraph (1) shall—

(a) be expressed as a percentage, which shall be determined as at the time of use of the ingredient or category of ingredients in the preparation of the food; and

(b) appear—

(i) in or next to the name of the food, or

(ii) in the list of ingredients in connection with the ingredient or category of ingredients in question.".

10. In regulation 42 (misleading descriptions) there shall be inserted after paragraph (3)—

"(4) In calculating the percentage of milk fat in any cream for the purposes of paragraph (3) and Part III of Schedule 8, any ingredient added to the cream shall be disregarded.".

11. In regulation 47 (defence in relation to exports) there shall be substituted for paragraph (*b*)—

"(b) in the case of export to an EEA State, that the legislation complies with the provisions of Directive 79/112 and, where applicable, the provisions of Directive 87/250, Directive 89/398, Directive 90/496 and Directive 94/54.".

12. In regulation 50 (transitional provision)—

(a) in paragraphs (2) and (3), for "44(1)(*a*)" there shall be substituted "44(*a*)";

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

"(4) In any proceedings for an offence under regulation 44(*a*), it shall be a defence to prove that—

(a) the food concerned was prepacked before 14th February 2000, and

(b) the matters constituting the offence would not have constituted an offence under these Regulations if the amendments made by the following provisions of the Food Labelling (Amendment) Regulations (Northern Ireland) 1998, namely—

(i) regulations 3 and 13 and the Schedule (in so far as they include in the definition of "Directive 79/112" a reference to European Parliament and Council Directive 97/4/EC(**11**)),

(ii) regulation 4 (in so far as it substitutes a new regulation 3(1)(iii)), and

(iii) regulations 6 to 9, 14 and 15,

had not been made when the food was prepacked.".

13. There shall be inserted immediately before Schedule 1 the Schedule to these Regulations.

14. In Schedule 3 (generic names in list of ingredients) in the entry relating to starch there shall be inserted in column 3 (conditions of use of generic name)—

"In the case of a starch which may contain gluten, the generic name must be accompanied by an indication of the specific vegetable origin of the starch".

15. In Schedule 4 (categories of additives which must be identified in a list of ingredients by their category name) in note 2 there shall be inserted at the end—

"In the case of a modified starch which may contain gluten, the category name must be accompanied by an indication of the specific vegetable origin of the starch".

16. In Part II of Schedule 6 (restricted claims), in the entry relating to reduced or low energy value claims there shall be inserted in column 2 (conditions) after paragraph 2 the following paragraph—

"**3.** The food must be marked or labelled with the prescribed nutrition labelling.".

(**11**) O.J. No. L43, 14.2.97, p. 21