STATUTORY RULES OF NORTHERN IRELAND

1996 No. 48

FOOD

Sweeteners in Food Regulations (Northern Ireland) 1996

Made - - - -	*28th February 1996*
Coming into operation	*22nd April 1996*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1)(*a*) and (*e*), 16(1), 25(1) and (3), 26(3) and 47(2) of, and paragraph 1 of Schedule 1 to, 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 that 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 Sweeteners in Food Regulations (Northern Ireland) 1996 and shall come into operation on 22nd April 1996.

Interpretation

2.—(1) In these Regulations—

"Directive 94/35/EC" means European Parliament and Council Directive 94/35/EC(**2**) on sweeteners for use in foodstuffs;

"Directive 95/31/EC" means Commission Directive 95/31/EC(**3**) laying down specific criteria of purity concerning sweeteners for use in foodstuffs;

"food" means food sold, or intended for sale, for human consumption, and in regulation 6 and for the purposes of regulation 9 includes a sweetener;

"food additive" means any substance not normally consumed as a food in itself and not normally used as a characteristic ingredient of food, whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing, preparation, treatment, packaging, transport, or storage of such food results, or may reasonably be expected to result, in it or its by-products becoming directly of indirectly a component of such foods;

(**1**) S.I.1991/762 (N.I. 7). *See* Article 2(2) for the definition of "regulations" and "the Department concerned"
(**2**) O.J. No. L237, 10.9.94, p. 3
(**3**) O.J. No. L178, 28.7.95, p. 1

"infants" means children under the age of twelve months;

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

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

"permitted sweetener" means any sweetener specified in column 2 of Schedule 1 which satisfies the specific purity criteria for that sweetener set out in the annex to Directive 95/31/EC;

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

"sweetener" means any food additive which is used or intended to be used—

(a) to impart a sweet taste to food, or

(b) as a table-top sweetener;

"young children" means children aged between one and three years,

and other expressions used in these Regulations and in Directive 94/35/EC have the same meaning as they have in that Directive.

(2) In Schedule 1—

(a) in column 3, the description "with no added sugar" means that the food to which it refers does not contain any—

(i) added monosaccharide,

(ii) added disaccharide,

(iii) other added food used for its sweetening properties;

(b) in column 3, the description "energy-reduced" means that the food to which it refers has an energy value reduced by at least 40% compared with the original or a similar food;

(c) in column 4, the maximum usable dose indicated in relation to a food is the maximum amount, in milligrams, of permitted sweetener per kilogram or, as the case may be, per litre of that food which is ready to eat having been prepared according to any instructions for use;

(d) in column 4, "*quantum satis*" means that no maximum level of permitted sweetener in or on a corresponding food is specified but that in or on such food a permitted sweetener may be used in accordance with good manufacturing practice at a level not higher than is necessary to achieve the intended purpose and provided that such use does not mislead the consumer.

Sale and use of sweeteners

3.—(1) Subject to regulation 4, no person shall sell any sweetener which is intended—

(a) for sale to the ultimate consumer, or

(b) for use in or on any food,

other than a permitted sweetener.

(2) Subject to paragraph (3), no person shall use any sweetener in or on any food.

(3) Subject to paragraph (4), no person shall use any permitted sweetener in or on any food listed in column 3 of Schedule 1 other than a permitted sweetener listed in relation to that food in column 2 of Schedule 1 in an amount not exceeding the maximum usable dose for such permitted sweetener in or on such food as listed in Column 4 of Schedule 1.

(4) No person shall use any permitted sweetener in or on any food for infants or young children as specified in Council Directive 89/398/EEC(**4**) on the approximation of the laws of the member States relating to foodstuffs intended for particular nutritional uses.

Sale of table-top sweeteners

4. No person shall sell any table-top sweetener unless—

(a) it contains no sweetener other than a permitted sweetener, and

(b) it is marked or labelled—

(i) with the description "x-based table-top sweetener", substituting for x the name of any permitted sweetener which it contains,

(ii) where it contains polyols, with the warning "excessive consumption may induce laxative effects", and

(iii) where it contains aspartame, with the warning "contains a source of phenylalanine".

Sale of food containing sweeteners

5. No person shall sell any food having in it or on it any added sweetener other than a permitted sweetener which has been used in or on that food without contravening any of the provisions of paragraphs (2), (3) and (4) of regulation 3.

Condemnation of food

6. Where any food is certified by a food analyst as being food which it is an offence against these Regulations to sell, that food may be treated for the purposes of Article 8 of the Order (inspection and seizure of suspected food) as failing to comply with food safety requirements, and Article 7(2) of the Order shall apply for the purposes of these Regulations as it applies for the purposes of the Order.

Offences, penalties and enforcement

7.—(1) If any person contravenes any of the provisions of these Regulations he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) These Regulations shall be enforced and executed by each district council within its district.

Defence in relation to exports

8. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

(a) that the food or, as the case may be, sweetener 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 such food or sweetener complies with that legislation; and

(b) in the case of export to another member State, that the legislation complies with Council Directive 89/107/EEC(**5**) on the approximation of the laws of the member States concerning food additives authorised for use in foodstuffs intended for human consumption, Directive 94/35/EC and Directive 95/31/EC.

(**4**) O.J. No. L186, 30.6.89, p. 27
(**5**) O.J. No. L40, 11.2.89, p. 27

Application of various provisions of the Order

9. The following provisions of the Order shall apply for the purposes of these Regulations as they apply for the purposes of Articles 7, 13 and 14 of the Order and any reference in them 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 (offences due to fault of another person);

(d) Article 20 (defence of due diligence);

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

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

(g) Article 34 (obstruction etc. of officers).

Revocation and amendments

10.—(1) The Regulations and order specified in columns 1 and 2 of Schedule 2 shall be revoked to the extent specified in column 3 of that Schedule.

(2) In the Jam and Similar Products Regulations (Northern Ireland) 1982(**6**), in paragraph (1) of regulation 2 (interpretation), for the definition of "permitted sweetener" there shall be substituted—

> ""permitted sweetener" means any sweetener in so far as its use is permitted by the Sweeteners in Food Regulations (Northern Ireland) 1996;".

(3) In the Meat Products and Spreadable Fish Products Regulations (Northern Ireland) 1984(**7**), in the definition of "additive" in paragraph (1) of regulation 2 (interpretation), for "1983" there shall be substituted "1996".

(4) In the Food Additives Labelling Regulations (Northern Ireland) 1992(**8**), in Part II of Schedule 1 (categories of food additives), in subparagraph (*n*), for "1983" there shall be substituted "1996".

Transitional provision and exemption

11.—(1) In any proceedings for an offence against these Regulations it shall be a defence to prove that—

(a) (i) the act was committed before 30th June 1996, or

(ii) the act was that of selling a sweetener or a food which, in either case, was put on the market or labelled before 30th June 1996; and

(b) the matters constituting the offence would not have constituted an offence under any Regulations now revoked or amended by these Regulations if those Regulations had been in operation (in the case of Regulations now being amended, as if such amendments had not been made) when the act was committed or the sweetener or, as the case may be, the food was put on the market or labelled.

(2) These Regulations shall not apply to any sweetener or, as the case may be, food which—

(a) is brought into Northern Ireland before 30th June 1996 from a member State 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 give the nature of the sweetener or, as the case may be, the food.

(**6**) S.R. 1982 No. 105; the relevant amending Regulations are S.R. 1983 No. 265
(**7**) S.R. 1984 No. 408, to which there are amendments not relevant to these Regulations
(**8**) S.R. 1992 No. 417

(3) For the purpose of paragraph (2), "free circulation" shall be construed in accordance with Article 9.2 of the Treaty establishing the European Community.

Sealed with the Official Seal of the Department of Health and Social Services on

28th February 1996.

D. A. Baker
Assistant Secretary