STATUTORY RULES OF NORTHERN IRELAND

2019 No. 9

FOOD

The Food Safety (Information and Compositional Requirements) (Amendment) Regulations (Northern Ireland) 2019

Made - - - -	*29th January 2019*
Coming into operation	*22nd February 2019*

The Department of Health [F1] makes the following Regulations in exercise of the powers conferred by Articles 16(1) and (2), 25(1) and (3) and 47(2)(b) of the Food Safety (Northern Ireland) Order 1991 [F2] and paragraph 1A of Schedule 2 to the European Communities Act 1972 [F3].

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Department of Health that it is expedient for references to provisions of Commission Delegated Regulation (EU) 2016/128 [F4] to be construed as a reference to those provisions as amended from time to time.

In accordance with Article 47(3A) of the Food Safety (Northern Ireland) Order 1991, the Department of Health has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No 178/2002[F5] of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

F1 Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I.), **section 1(5)**

F2 S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), **paragraphs 26 to 42** of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R.2004 Nos.482 and 505

F3 1972 c.68. as amended by the Legislative and Regulatory Reform Act 2006 (c.51) and the European Union (Amendment) Act 2008(c.7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (2008 c.7)

F4 Commission Delegated Regulation (EU) 2016/128 supplementing Regulation (EU) No. 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes (OJ No. L 25, 02.02.2016, p 30)

F5 OJ No. L 31 1.2.2002, p 1, last amended by Commission Regulation (EU) No. 2017/228 (OJ No. L 35, 10.02.17, p 10)

Citation and commencement

1. These Regulations may be cited as the Food Safety (Information and Compositional Requirements) (Amendment) Regulations (Northern Ireland) 2019 and come into operation on 22nd February 2019.

Interpretation

2. In these Regulations "the 2016 Regulations" means the Food Safety (Information and Compositional Requirements) Regulations (Northern Ireland) 2016 [F6].

F6 S.R. 2016 No. 251

Amendment of the 2016 Regulations

3.—(1) The 2016 Regulations are amended as follows.

(2) In regulation 2 (Interpretation)—

(a) in paragraph (1)—

(i) before the definition of "the EU regulation" insert—

""the Delegated Regulation" means Commission Delegated Regulation (EU) 2016/128 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes."

(ii) after the definition of "the EU regulation" insert —

""food for special medical purposes" has the same meaning in these Regulations as in the EU Regulation [F7];

"infant" means a child under the age of 12 months;";

(iii) in the definition of "specified EU requirement", after "the EU Regulation" insert " or the Delegated Regulation ".

(b) after paragraph (3) insert —

"(4) Any reference to a provision of the Delegated Regulation contained in the table in Schedule 1 is a reference to that provision as amended from time to time.

(5) Any reference to the Delegated Regulation is a reference to the Delegated Regulation only insofar as it applies to food for special medical purposes other than that developed to satisfy the nutritional requirements of infants.".

(3) After regulation 7 (Revocation) insert —

"**Transitional Arrangements**

8. Food for special medical purposes, other than that developed to satisfy the nutritional requirements of infants, that does not comply with the specified provisions of the Delegated Regulation may continue to be marketed until stocks of such food are exhausted provided:

(a) it complies with the specified provisions of the EU Regulation;

(b) it was placed on the market or labelled before 22 February 2019; and

(c) the requirements of regulation 3(1) and (2) of the Medical Food Regulations (Northern Ireland) 2000 are met.".

F7 Article 2(2)(g) of the EU Regulation states " 'food for special medical purposes' means food specially processed or formulated and intended for the dietary management of patients, including infants, to be used under medical supervision; it is intended for the exclusive or partial feeding of patients with a limited, impaired or disturbed capacity to take, digest, absorb, metabolise or excrete ordinary food or certain nutrients contained therein, or metabolites, or with other medically-determined nutrient requirements, whose dietary management cannot be achieved by modification of the normal diet alone."

Amendment of Schedule 1 to the 2016 Regulations

4. For the table in Schedule 1 to the 2016 Regulation substitute the following:

*"**Column 1*** ***Specified provision of the EU Regulation***	***Column 2*** ***Provisions to be read with the specified provision of the EU Regulation***
Article 4(2) (requirement for relevant food to be pre-packed)	Articles 1(1) and 4(1)
Article 9(1) (requirement for the composition of food to be nutritionally appropriate and suitable)	Articles 1(1), 4(1) and 9(3)
Article 9(2) (prohibition on substances in dangerous quantities)	Articles 1(1) and 4(1)
Article 9(5) (requirements as to labelling, presentation and advertising of relevant food)	Articles 1(1), 4(1) and 9(6)
Article 10 (additional requirements for infant formula and follow-on formula)	Article 4(1)
Article 15(1) (Union list)	Articles 1(1)(c),4(1) and the Annex insofar as it applies to food for special medical purposes
Specified provision of the Delegated Regulation	*Provisions to be read with the specified provision of the Delegated Regulation*
Article 2(2) (requirement for the formulation of food to be based on sound medical and nutritional principles)	Article 1
The second paragraph of Article 2(3) (food to comply with compositional requirements in Part B of Annex 1)	Articles 1, and 2(4), and Part B of Annex 1
Article 3(2) (requirement relating to residue levels) insofar as it applies to young children rather than infants	Articles 1 and 3(1), (3) and (5) and Annex 2
Article 3(4) (prohibition on the use of plant protection products) insofar as it applies to young children rather than infants	Articles 1 and 3(1) and (5) and Annex 3
Article 4 (name of the food)	Article 1 and Annex 4
Article 5(2) (specific requirements on food information)	Articles 1, and 5(1), and (3)