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

(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

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;
- (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).

(2) In the application of Article 33 of the Order (powers of entry) for the purposes of these Regulations, the reference in paragraph (1)(a) of that Article to the Order shall be construed as including a reference to Regulation 1139/98.

(3) The penalty provisions in Article 36(1) of the Order (punishment of offences) shall apply in relation to an offence under Article 34(1) of the Order as applied by these Regulations, and the penalty provisions in Article 36(2) and (3) of the Order shall apply in relation to an offence under Article 34(2) of the Order as applied by these Regulations.”.

12. In regulation 50 (transitional provision) after paragraph (4) there shall be inserted—

“(5) The following provisions of these Regulations shall not apply in relation to the sale of any relevant food before 23rd September 1999—

- (a) regulation 44(a), as read with regulation 36 or 38, in relation to the particulars with which food is required to be marked or labelled by Regulation 1139/98, and
- (b) regulation 44(f).

(6) In any proceedings for an offence in relation to any relevant food under—

- (a) regulation 44(a), as read with regulation 36 or 38, in relation to the particulars with which food is required to be marked or labelled by Regulation 1139/98, and
- (b) regulation 44(f),

it shall be a defence to prove that the food was prepared using an ingredient which was on sale before 1st September 1998.

(7) For the purposes of paragraphs (5) and (6), “relevant food” means food which—

- (a) is sold to the ultimate consumer, and
- (b) is—
 - (i) not prepacked, or
 - (ii) prepacked for direct sale.”.

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

22nd March 1999.

John O'Neill
Assistant Secretary

Sealed with the Official Seal of the Department of Agriculture on

22nd March 1999.

Liam McKibben
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Food Labelling Regulations (Northern Ireland) 1996 (“the principal Regulations”), as amended. They provide for the enforcement of Council Regulation (EC) No. 1139/98 concerning the compulsory indication, on the labelling of certain foodstuffs produced from genetically modified organisms, of particulars other than those provided for in Directive 79/112/EEC (regulations 3 and 9).

The products concerned are those which are to be delivered as such to the final consumer, having been produced in whole or in part from genetically modified soya beans or genetically modified maize (Article 1 of Regulation 1139/98 refers. There are transitional provisions in Article 4 of that Regulation in respect of products which are already on the market or which are labelled in accordance with Commission Regulation (EC) No. 1813/97 (O.J. No. L257, 20.9.97, p. 7)).

Regulation 1139/98 was made pursuant to Article 4(2) of Council Directive 79/112/EEC on the approximation of the laws of the member States relating to the labelling, presentation and advertising of foodstuffs (O.J. No. L33, 8.2.79, p. 1). Pursuant to Article 11 of that Directive, the Regulations—

- (a) contain exemptions from the need to be labelled with the particulars required by Regulation 1139/98 in the case of small packages and certain indelibly marked glass bottles, and include a similar exemption in respect of the particulars specified in regulations 33 and 34 of the principal Regulations (relating to foods packaged in certain gases and foods containing sweeteners or added sugars) (regulation 5); and
- (b) make provision as to the manner of marking or labelling in the case of the particulars required by Regulation 1139/98 (regulations 6, 7 and 8).

Further to Article 12 of Directive 79/112/EEC, the Regulations—

- (a) allow alternative labelling arrangements instead of the particulars required by Regulation 1139/98 in the case of sales to the ultimate consumer by appropriate premises of food which is prepacked for direct sale or not prepacked (regulation 7); and
- (b) contain transitional provisions in respect of sales of such food to the ultimate consumer (regulation 12).

These Regulations also make some consequential amendments and some technical amendments in respect of the application of specified provisions of the Food Safety (Northern Ireland) Order 1991 (regulations 4, 10 and 11).