

2009 No. 415

FOOD

The Food Enzymes Regulations (Northern Ireland) 2009

Made - - - - *11th December 2009*

Coming into operation - *20th January 2010*

The Department of Health, Social Services and Public Safety(**a**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a), (e) and (f), 16(2), 25(1) and (3), and 47(2) of the Food Safety (Northern Ireland) Order 1991(**b**).

In accordance with Article 47(3A) of that Order, it has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No. 178/2002 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(**c**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Food Enzymes Regulations (Northern Ireland) 2009 and come into operation on 20th January 2010.

Interpretation

2.—(1) In these Regulations —

“the EC Regulation” means Regulation (EC) No.1332/2008 of the European Parliament and of the Council on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No.1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No. 258/97(**d**);

“the Order” means the Food Safety (Northern Ireland) Order 1991.

(2) Any other expression used in these Regulations and in the EC Regulation has the same meaning in these Regulations as it bears in the EC Regulation.

(a) Formerly the Department of Health and Social Services; see S.I.1999/283 (N.I.1) Article 3(6)
(b) 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
(c) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188,18.7.2009 p.14)
(d) OJ No. L354, 31.12.2008, p.7

(3) Any reference to a numbered Article is a reference to the Article so numbered in the EC Regulation.

Offences, penalties and savings

3.—(1) A person who contravenes or fails to comply with any of the provisions of the EC Regulation specified in paragraph (2) as read with the transitional arrangements contained in Article 18 and Article 24 is guilty of an offence.

(2) The provisions mentioned in paragraph (1) are —

- (a) Article 4 (restriction on placing on the market and use of food enzymes not on the list provided for in Article 17);
- (b) Article 5 (prohibition on placing on the market of non-compliant food enzymes or foods containing such enzymes);
- (c) Article 10(1) (requirements for labelling of food enzymes and preparations not intended for sale to the final consumer);
- (d) Article 12(1) (requirements for labelling of food enzymes and preparations intended for sale to the final consumer);
- (e) Article 14(1) and (2) (requirement to provide specified information to the Commission).

(3) Anyone convicted of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement and competent authorities

4. It shall be the duty of each district council within its district to execute and enforce these Regulations and the EC Regulation.

Application of various Articles of the Food Safety (Northern Ireland) Order 1991

5.—(1) The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or Part thereof is to be construed as a reference to these Regulations —

- (a) Article 19 (offences due to fault of another person);
- (b) Article 20 (defence of due diligence), with the modification that —
 - (i) paragraphs (2) to (4) shall apply in relation to an offence under regulation 3(1) as they apply in relation to an offence under Article 13 or 14, and
 - (ii) in paragraph (4) the references to “sale” are deemed to include references to “placing on the market”;
- (c) Article 30(8) (which relates to documentary evidence);
- (d) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by paragraph (3)(b);
- (e) Article 36(2) and (3), in so far as it relates to offences under Article 34(2) as applied by paragraph (3)(c).

(2) In the application of Article 33 of the Order (powers of entry) for the purposes of these Regulations, the reference in Article 33(1) to the Order is to be construed as including references to the EC Regulation.

(3) The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order is to be construed as including a reference to the EC Regulation and these Regulations —

- (a) Article 4 (presumptions that food intended for human consumption) with the modification that the references to “sold” and “sale” are deemed to include references to “placed on the market” and “placing on the market” respectively;

- (b) Article 34(1) (obstruction of officers);
- (c) Article 34(2), with the modification that the reference to “any such requirement as is mentioned in paragraph (1)(b)” is deemed to be a reference to any such requirement as is mentioned in Article 34(1)(b) as applied by sub-paragraph (b).

(4) Article 35 of the Order (time limit for prosecutions) applies to offences under regulation 3 as it applies to offences punishable under Article 36(2) of the Order.

Condemnation of Food

6. Where any food is certified by a food analyst as being food which it is an offence under these Regulations to place on the market, that food may be treated for the purposes of Article 8 of the Order (under which a food may be seized and destroyed under an order of a justice of the peace) as failing to comply with food safety requirements.

Amendment of the Food Labelling Regulations (Northern Ireland) 1996

7.—(1) The Food Labelling Regulations (Northern Ireland) 1996(a) are amended in accordance with paragraphs (2) to (5).

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

- (a) following the definition of “follow-on formula” insert the following definition —
 - “food enzyme” has the meaning that it bears in Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes;”;
 - and
- (b) in the definition of “ingredient”, after the expression “any additive” insert the expression “, any food enzyme”.

(3) In regulation 14 (names of ingredients) after paragraph (9) insert the following as paragraph (9A) —

“(9A) A food enzyme other than one referred to in regulation 17(b) or (c) shall be identified by the appropriate category in Schedule 4 followed by the specific name of that enzyme.”.

(4) In regulation 17 (ingredients which need not be named) —

- (a) in paragraphs (b) and (c) in each case after the expression “any additive” insert “or food enzyme”; and
- (b) in paragraph (d) after the expression “an additive” insert “or food enzyme”;

(5) In the heading to Schedule 4, for the word “additives” substitute “ingredients”.

Amendment of the Caseins and Caseinates Regulations (Northern Ireland) 1986

8. In the Schedule to the Caseins and Caseinates Regulations (Northern Ireland) 1986(b), in column 2 of Part II (technological adjuvants and bacterial cultures) after the expressions “rennet” and “other milk-coagulating enzymes” in each case add the expression “meeting the requirements of Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes”.

Amendment of the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2003

9. In Schedule 4 (permitted treatments and additional substances) to the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2003(c), after the expressions “Pectolytic enzymes”, “Proteolytic enzymes” and “Amylolytic enzymes” in paragraphs 4, 5 and 6 respectively in each

(a) S.R. 1996 No. 383; regulation 17 was amended by S.R. 2004 No. 469

(b) S.R. 1986 No. 40, as amended by S.R. 1990 No. 37 S.R. 1991 No. 344, S.R. 1992 No 464, S.R. 1996 No 383, S.R. 2005 No. 574

(c) S.R. 2003 No. 305, as amended by S.R. 2005 No 574

case add the expression “meeting the requirements of Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes”.

Amendment of the Novel Foods and Novel Food Ingredients Regulations (Northern Ireland) 2004

10. In regulation 2(1) (interpretation) of the Novel Foods and Novel Food Ingredients Regulations (Northern Ireland) 2004(a), for the definition of “Regulation (EC) No 258/97” substitute the following definition —

““Regulation (EC) No. 258/97” means Regulation (EC) No. 258/97 of the European Parliament and of the Council concerning novel foods and food ingredients as last amended by Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes;”.

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 11th December 2009.



Sean Donaghy

A senior officer of the Department of Health, Social Services and Public Safety

(a) S.R. 2004 No. 33

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the execution and enforcement of Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No. 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No. 258/97 (OJ No. L354, 31.12.2008, p.7), (“the EC Regulation”).

The Regulations provide that it is an offence —

- (a) once the list of food enzymes mentioned in Article 17 of the EC Regulation has been adopted, to place on the market or use as food enzymes any that are not on that list (*regulation 3(2)(a)*);
- (b) to place on the market a food enzyme (or any food containing such an enzyme) that is not compliant with the EC Regulation and its implementing measures (*regulation 3(2)(b)*);
- (c) to fail to label food enzymes or enzyme preparations in accordance with the relevant requirements for business to business transactions (*regulation 3(2)(c)*) or for sales to the final consumer (*regulation 3(2)(d)*); or
- (d) to fail to provide certain technical information to the Commission in specified circumstances (*regulation 3(2)(e)*).

These Regulations also —

- (a) designate the authorities having the duty to enforce these Regulations and the EC Regulation (*regulation 4*);
- (b) apply certain specified provisions of the Food Safety (Northern Ireland) Order 1991 for the purpose of these Regulations (*regulation 5*); and
- (c) provide that where food does not comply with these Regulations such that it would be an offence to place it on the market, it may be treated as failing to comply with food safety requirements for the purposes of seizure and destruction under Article 8 of the Food Safety (Northern Ireland) Order 1991 (*regulation 6*).

The Regulations make consequential amendments to —

- (a) the Food Labelling Regulations (Northern Ireland) 1996 (*regulation 7*);
- (b) the Caseins and Caseinates Regulations (Northern Ireland) 1986 (*regulation 8*);
- (c) the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2003 (*regulation 9*); and
- (d) the Novel Foods and Novel Food Ingredients Regulations (Northern Ireland) 2004 (*regulation 10*).

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