

STATUTORY RULES OF NORTHERN IRELAND

**2013 No. 219**

**FOOD**

**The Fish Labelling Regulations (Northern Ireland) 2013**

*Made - - - - 9th September 2013*

*Coming into operation 7th October 2013*

<sup>M1M2M3</sup>The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by Articles 15(1),16(2), 25(2)(e) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991 , and paragraph 1A of Schedule 2 to the European Communities Act 1972 .

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

- (a)
- (b)
- (c)
- (d)

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 <sup>M4</sup>, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

**Modifications etc. (not altering text)**

- C1** Regulations applied (with modifications) (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), 9, **Sch.**

**Marginal Citations**

- M1** Formerly the Department of Health and Social Services; See [S.I. 1999/283 \(N.I.1\)](#) Article 3(6)
- M2** [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
- M3** [1972 c.68](#). Paragraph 1A of Schedule 2 was inserted by section 28 of the [Legislative and Regulatory Reform Act 2006 \(2006 c.51\)](#)
- M4** OJ No.L31, 1.2.2002, p.1. as last amended by OJ No. L188, 18.7.2009, p 14

## Citation and commencement

1. These Regulations may be cited as the Fish Labelling Regulations (Northern Ireland) 2013 and come into operation on 7th October 2013.

## Interpretation

[<sup>F1</sup>2.—(1) In these Regulations—

“the EU Regulations” means Regulation 1224/2009, Regulation 404/2011 and Regulation 1379/2013;

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

“Regulation 1224/2009” means Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy;

“Regulation 404/2011” means Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy; and

“Regulation 1379/2013” means Regulation (EU) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products.]

(2) Any references to the EU Regulations in these Regulations are references to the EU Regulations as amended from time to time.

(3) Any expressions used in these Regulations have the same meaning as in the EU Regulations.

(4) The Interpretation Act (Northern Ireland) 1954 <sup>M5</sup> applies to these Regulations as it applies to an Act of the Assembly.

**F1** Reg. 2(1) substituted (13.12.2014) by [The Fish Labelling \(Amendment\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/287\)](#), regs. 1(1), 2(2)

### Marginal Citations

**M5** 1954 c.33 (NI)

## Consumer information and traceability requirements

3.—(1) In these Regulations—

(a) “consumer information requirement” means a requirement referred to in paragraph (2), subject to paragraph [<sup>F2</sup>(6) and (7)]; and

(b) “traceability requirement” means a requirement referred to in paragraph (3), subject to paragraph (7).

(2) For the purposes of paragraph (1)(a) the requirements are—

[<sup>F3</sup>(a) a requirement specified in Article 35 Regulation 1379/2013 (provision of consumer information) as read with Article 38 of that Regulation, and a requirement specified in Article 39(3) or (4) of Regulation 1379/2013, as read with paragraph (1) of that Article.]

(b) a requirement specified in Article 58(6) of Regulation 1224/2009 as read with Articles 67(13) and 68 of Regulation 404/2011.

(3) For the purposes of paragraph (1)(b), the requirements are Article 58(2), (3) and (5) of Regulation 1224/2009 as read with Article 58(7) of that Regulation [<sup>F4</sup>, Article 67(1) to (3) and (5) to (13) of Regulation 404/2011 and Articles 35(1)(c) and 38 of Regulation 1379/2013.]

<sup>F5</sup>(4) .....

<sup>F5</sup>(5) .....

[<sup>F6</sup>(6) The requirement referred to in paragraph (2)(a) does not apply in the circumstances described in Article 35(4) of Regulation 1379/2013 as read with Article 58(8) of Regulation 1224/2009.]

(7) The requirements referred to in paragraphs (2)(b) and (3) do not apply in circumstances described in Article 58(8) of Regulation 1224/2009, as read with Article 67(14) of Regulation 404/2011, where the sale does not exceed the sterling equivalent of 50 euros per day.

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| <b>F2</b> | Words in <a href="#">reg. 3(1)(a)</a> substituted (13.12.2014) by <a href="#">The Fish Labelling (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/287)</a> , regs. 1(1), <b>2(3)(a)</b> |
| <b>F3</b> | <a href="#">Reg. 3(2)(a)</a> substituted (13.12.2014) by <a href="#">The Fish Labelling (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/287)</a> , regs. 1(1), <b>2(3)(b)</b>          |
| <b>F4</b> | Words in <a href="#">reg. 3(3)</a> substituted (13.12.2014) by <a href="#">The Fish Labelling (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/287)</a> , regs. 1(1), <b>2(3)(c)</b>    |
| <b>F5</b> | <a href="#">Reg. 3(4)(5)</a> omitted (13.12.2014) by virtue of <a href="#">The Fish Labelling (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/287)</a> , regs. 1(1), <b>2(3)(d)</b>    |
| <b>F6</b> | <a href="#">Reg. 3(6)</a> substituted (13.12.2014) by <a href="#">The Fish Labelling (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/287)</a> , regs. 1(1), <b>2(3)(e)</b>             |

### Improvement notice – application of Article 9 of the Order

4.—(1) Article 9 of the Order (improvement notices) applies for the purposes of these Regulations with the following modifications.

(2) For paragraph (1), substitute—

“(1) If an authorised officer has reasonable grounds for believing that an operator has not complied with, or is not likely to comply with, a consumer information requirement or a traceability requirement, the officer may, by notice served on that operator (in this Order referred to as an “improvement notice”)—

- (a) state the officer's grounds for believing that the operator is failing to comply with those requirements;
- (b) specify the matters which constitute the operator's failure so to comply;
- (c) specify the measures which, in the officer's opinion, the operator must take in order to secure compliance; and
- (d) require the operator to take those measures, or measures which are at least equivalent to them, within such period as may be specified in the notice.”

(3) For paragraph (3), substitute —

“(3) In this Article—

- (a) “consumer information requirement” and “traceability requirement” have the meanings given by regulation 3(1) of the Fish Labelling Regulations (Northern Ireland) 2013;
- (b) “operator” has the meaning as in the EU Regulations as defined in regulation 2(1) and 2(2) of the Fish Labelling Regulations (Northern Ireland) 2013.”

### **Appeal against improvement notices**

5.—(1) Article 37 of the Order (appeals) applies for the purposes of these Regulations as modified by paragraphs (2) and (3).

(2) For paragraph (1) substitute “ Any person who is aggrieved by a decision of an authorised officer to serve an improvement notice under Article 9(1) as applied and modified by regulation 4(1) of the Fish Labelling Regulations (Northern Ireland) 2013 may appeal to a court of summary jurisdiction ”.

(3) In paragraph (2A)(b) for “(1)(a) substitute “ (1) as applied by regulation 5 of the Fish Labelling Regulations (Northern Ireland) 2013, ”.

(4) Article 38 of the Order applies for the purposes of these Regulations with the modification that in paragraph (1) and (2) “ as applied by regulation 4(1) of the Fish Labelling Regulations (Northern Ireland) 2013 ” is inserted after “improvement notice”.

### **Requirement to keep records**

6.—(1) For the purposes of Article 58(4) of Regulation 1224/2009, an operator must keep a record of the information referred to in that Article as read with Article 67(4) of Regulation 404/2011.

(2) The record must be kept for three years from the date the transaction is completed.

(3) It is an offence to fail to comply with this regulation.

### **Requirement to produce records**

7. An operator who fails to comply with the second sentence of Article 58(4) of Regulation 1224/2009 is guilty of an offence.

### **Penalties**

8. A person guilty of an offence under regulation 6 or regulation 7 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Application and modification of the Order**

9. The Schedule (application and modification of the Order) has effect.

### **Enforcement**

10.—(1) Each district council must enforce and execute these Regulations in its district.

(2) Each district council is the competent authority in its district for the purposes of Article 58(4) of Regulation 1224/2009 and Article 67(5) of Regulation 404/2011.

### **Revocation**

11. The Fish Labelling Regulations (Northern Ireland) 2010 <sup>M6</sup> are revoked.

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#### **Marginal Citations**

**M6** S.R. 2010 No. 54

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 9th September 2013.

L.S.

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

## SCHEDULE

Regulation 9

## Application and modification of the Order

**PART 1**

## General

1. The following provisions of the Order apply for the purposes of these Regulations with the following modifications—

<i>Article of the Order</i>	<i>Modification</i>
Article 4 (presumptions that food intended for human consumption)	For “this Order” substitute “ the Fish Labelling Regulations (Northern Ireland) 2013 ”
Article 19 (offences due to fault of another person)	For “any of the preceding provisions of this Part”, substitute “ Article 9(2), as applied by regulation 4 of the Fish Labelling Regulations (Northern Ireland) 2013, or regulation 7 or 8 of those Regulations ”
Article 20 (defence of due diligence)	In paragraph (1), for “any of the preceding provisions of this Part” substitute “ Article 9(2), as applied by regulation 4 of the Fish Labelling Regulations (Northern Ireland) 2013, or regulation 6 or 7 of those Regulations ” Omit paragraphs (2) to (4)
Article 29 (procurement of samples)	In paragraph (b)(ii), after “under Article 34”, insert “ as applied by regulation 9 of and the Schedule to the Fish Labelling Regulations (Northern Ireland) 2013 ”
Article 30(8) (which relates to documentary evidence)	In paragraph (1), after “Article 34(1)”, insert “ as applied by regulation 9 of, and the Schedule to, the Fish Labelling Regulations (Northern Ireland) 2013 ”
Article 34 (obstruction etc of officers)	After paragraph (1), insert— “(1A) A person guilty of an offence under Article 9(2), as applied by regulation 4 of the Fish Labelling Regulations (Northern Ireland) 2013, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale. ”
Article 36 (1) and (2) (punishment of offences)	In paragraph (2)— (a) for “any other offence under this Order”, substitute “ an offence under Article 34(2) as applied by regulation 9 of, and the Schedule

to, the Fish Labelling Regulations (Northern Ireland) 2013 ”;  
(b) in paragraph (b), for “the relevant amount” substitute “ the statutory maximum ”

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## PART 2

### Powers of entry

1. For the purpose of enabling an authorised officer of an enforcement authority to ascertain whether there is, or has been, any contravention of a consumer information requirement or traceability requirement, Article 33 of the Order (powers of entry) is modified in its application to these Regulations as follows —

(a) in paragraph (1)(a), after “made under it” insert “ , or of a consumer information requirement or a traceability requirement ”;

(b) after paragraph (9), insert—

“(10) In this Article, “consumer information requirement” and “traceability requirement” have the meanings given by regulation 3(1) of the Fish Labelling Regulations (Northern Ireland) 2013.”.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations enforce in Northern Ireland the consumer information requirements of Chapter 2 of Title I of Council Regulation (EC) No 104/2000 on the common organisation of the markets in fishery and aquaculture products (OJ No L 17, 21.1.2000, p 22) and Commission Regulation (EC) No 2065/2001 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards informing consumers about fishery and aquaculture products (OJ No L 278, 23.10.2001, p 6). They also enforce the traceability requirements of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ No L 343, 22.12.2009, p 1) and Article 67 of Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ No L 112, 30.4.2011, p 1). Regulation 3 sets out the consumer information requirements and the traceability requirements. Regulation 4 applies Article 9 of the Food Safety (Northern Ireland) Order 1991 (N.I. 7) with modifications so that an authorised officer of an enforcement authority can serve an improvement notice on an operator who fails to comply with the consumer information requirements or traceability requirements. The provisions, as applied, make the failure to comply with an improvement notice an offence. In addition, the Regulations apply Articles 37 and 38 of the Food Safety (Northern Ireland) Order 1991 with modifications, enabling a decision to serve an improvement notice to be appealed (regulation 5).

**Changes to legislation:** *There are currently no known outstanding effects for the The Fish Labelling Regulations (Northern Ireland) 2013. (See end of Document for details)*

Regulation 6 requires operators to keep records of information specified in Article 58(4) of Regulation 1224/2009 (as read with Article 67(4) of Regulation 404/2011) and creates an offence for failure to comply with that requirement. Regulation 7 creates an offence for failure to produce those records on demand in breach of that Article. Regulation 8 prescribes penalties. Regulation 9 and the Schedule apply certain other provisions of the Food Safety (Northern Ireland) Order 1991 to these Regulations with consequential modifications. Regulation 10 provides that district councils must execute and enforce these Regulations. Regulation 11 revokes the Fish Labelling Regulations (Northern Ireland) 2010 (S.R. 2010 No. 54).



**Changes to legislation:**

There are currently no known outstanding effects for the The Fish Labelling Regulations (Northern Ireland) 2013.