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STATUTORY RULES OF NORTHERN IRELAND

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**2013 No. 220**

The Food Additives, Flavourings, Enzymes and  
Extraction Solvents Regulations (Northern Ireland) 2013

PART 1

Introductory

**Citation and commencement**

1. These Regulations may be cited as the Food Additives, Flavourings, Enzymes and Extraction Solvents Regulations (Northern Ireland) 2013 and come into operation on 31st October 2013.

**Interpretation**

2.—(1) In these Regulations —

“Directive 2009/32” means Directive [2009/32/EC](#) of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients(1);

“Regulation 2065/2003” means Regulation [\(EC\) No 2065/2003](#) of the European Parliament and of the Council on smoke flavourings used or intended for use in or on foods(2);

“Regulation 1332/2008” means Regulation [\(EC\) No 1332/2008](#) of the European Parliament and of the Council on food enzymes(3);

“Regulation 1333/2008” means Regulation [\(EC\) No 1333/2008](#) of the European Parliament and of the Council on food additives(4), as read with —

(a) Commission Regulation (EU) No 1129/2011 amending Annex II to Regulation [\(EC\) No 1333/2008](#) of the European Parliament and of the Council by establishing a Union list of food additives(5),

(b) Commission Regulation (EU) No 1130/2011 amending Annex III to Regulation [\(EC\) No 1333/2008](#) of the European Parliament and of the Council on food additives by establishing a Union list of food additives for use in food additives, food enzymes, food flavourings and nutrients(6), and

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(1) OJ No. L141, 6.6.2009, p.3. This instrument was last amended by Commission Directive 2010/59/EU (OJ No. L225, 27.8.2010, p.10)

(2) OJ No. L309, 26.11.2003, p.1. This instrument was last amended by Regulation [\(EC\) No. 596/2009](#) of the European Parliament and of the Council (OJ No. L188, 18.7.2009, p.14)

(3) OJ No. L354, 31.12.2008, p.7. This instrument was last amended by Commission Regulation (EU) No 1056/2012 (OJ No. L313, 13.11.2012, p.9)

(4) OJ No. L354, 31.12.2008, p.16. This instrument was last amended by Commission Regulation (EU) No. 739/2013 (OJ No. L204, 31.7.2013, p.35)

(5) OJ No. L295, 12.11.2011, p.1

(6) OJ No. L295, 12.11.2011, p.178

- (c) Commission Regulation (EU) No 231/2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council<sup>(7)</sup>;

“Regulation 1334/2008” means Regulation (EC) No 1334/2008 of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use in and on foods<sup>(8)</sup>, as read with Commission Regulation (EU) No 873/2012 on transitional measures concerning the Union list of flavourings and source materials set out in Annex I to Regulation (EC) 1334/2008 of the European Parliament and of the Council<sup>(9)</sup>;

“the EU Regulations” means Regulation 2065/2003, Regulation 1332/2008, Regulation 1333/2008 and Regulation 1334/2008; and

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

(2) Other expressions used in these Regulations and in the EU instruments listed in paragraph (4) have the same meaning in these Regulations as they do in those instruments.

(3) Any reference in these Regulations to an Article of or Annex to any of the EU instruments listed in paragraph (4) is a reference to that Article or Annex as amended from time to time.

(4) The EU instruments are Directive 2009/32, Regulation 2065/2003, Regulation (EC) No 1331/2008 of the European Parliament and of the Council establishing a common authorisation procedure for food additives, food enzymes and food flavourings<sup>(10)</sup>, Regulation 1332/2008, Regulation 1333/2008 and Regulation 1334/2008.

(5) The Interpretation Act (Northern Ireland) 1954<sup>(11)</sup> shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

## PART 2

### Food additives, flavourings and enzymes

#### **Offence of contravening EU requirements on food additives**

**3.** Any person who contravenes, or who uses or places on the market a product that fails to comply with, any of the provisions of Regulation 1333/2008 specified in the first column of Table 1 of Schedule 1, as read with transitional measures contained in or to be read with that Regulation, commits an offence.

#### **Offence of contravening EU requirements on flavourings, including smoke flavourings**

**4.** Any person who contravenes, or who uses or places on the market a product which fails to comply with, any of the provisions of Regulation 1334/2008 specified in the first column of Table 1 of Schedule 2, as read with Article 4 (flavouring substances under evaluation) of Commission Implementing Regulation (EU) No 872/2012 adopting the list of flavouring substances provided for by Regulation (EC) No 2232/96 of the European Parliament and of the Council<sup>(12)</sup> and with transitional measures contained in or to be read with Regulation 1334/2008, commits an offence.

(7) OJ No. L83, 22.3.2012, p.1. This instrument was last amended by Commission Regulation (EU) No. 497/2013 (OJ No. L143, 30.5.2013, p.20)

(8) OJ No. L354, 31.12.2008, p.34. This instrument was last amended by Commission Regulation (EU) No 545/2013 (OJ No. L163, 15.06.2013, p.15)

(9) OJ No. L267, 2.10.2012, p.162

(10) OJ No. L354, 31.12.2008, p.1. This instrument is implemented by Commission Regulation (EU) No. 234/2011 (OJ No. L64, 11.03.2011, p.15) and that Regulation has been amended by Commission Implementing Regulation (EU) No. 562/2012 (OJ No. L168, 28.06.2012, p.21)

(11) 1954 c. 33 (N.I.)

(12) OJ No. L267, 2.10.2012, p.1

5. Any person who contravenes, or who uses or places on the market a product which fails to comply with, any of the provisions of Regulation 2065/2003 specified in the first column of Table 1 of Schedule 3, as read with Article 20 (transitional measures), commits an offence.

#### **Offence of contravening EU requirements on food enzymes**

6. Any person who contravenes, or who uses or places on the market a product which fails to comply with, any of the provisions of Regulation 1332/2008 specified in the first column of Table 1 of Schedule 4, as read with Articles 18 and 24 (transitional measures), commits an offence.

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

7.—(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 a person is failing to comply with a provision of the Food Additives, Flavourings, Enzymes and Extraction Solvents Regulations (Northern Ireland) 2013 specified in paragraph (1A), the authorised officer may, by a notice served on that person (an “improvement notice”)—

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

(1A) The provisions are-

- (a) Regulation 13(2); and
- (b) any EU provision specified in the first column of Table 2 of Schedule 1, 2, 3 or 4.”.

(3) Omit paragraph (3).

#### **Appeals against an improvement notice**

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

(2) For paragraph (1) substitute—

“(1) 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 7 of the Food Additives, Flavourings, Enzymes and Extraction Solvents 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 8 of the Food Additives, Flavourings, Enzymes and Extraction Solvents 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 7 of the Food Additives, Flavourings, Enzymes and Extraction Solvents Regulations (Northern Ireland) 2013” is inserted after “improvement notice”.

## PART 3

### Extraction solvents

#### Controls on extraction solvents

**9.** In this Part any reference to a numbered Article or Annex is a reference to that Article of or Annex to Directive 2009/32.

**10.** The provisions of this Part do not apply to any extraction solvent —

- (a) used in the production of any food additives, vitamins or any other nutritional additives, unless such food additives, vitamins or other nutritional additives are listed in Annex I; or
- (b) intended for export outside the European Union.

**11.** In this Part “permitted extraction solvent” means —

- (a) an extraction solvent that —
  - (i) is listed in Annex I,
  - (ii) is used in accordance with the conditions of use and within any maximum residue limits specified in that Annex,
  - (iii) does not contain a toxicologically dangerous amount of any element or substance,
  - (iv) subject to any exceptions deriving from specific purity criteria, does not contain more than 1 mg/kg of arsenic or more than 1 mg/kg lead, and
  - (v) meets the requirements of Article 3(c) as regards purity criteria; or
- (b) water to which substances regulating acidity or alkalinity may have been added; or
- (c) food substances which possess solvent properties.

**12.** A person must not use as an extraction solvent in the production of food any extraction solvent that is not a permitted extraction solvent.

**13.—(1)** A person must not place on the market —

- (a) an extraction solvent that is not a permitted extraction solvent, or
- (b) any food having in it or on it an added extraction solvent that is not a permitted extraction solvent.

(2) A person must not place on the market an extraction solvent that does not meet the requirements of regulation 14.

**14.—(1)** Subject to paragraph (2), the following information must appear on the packaging, container or label —

- (a) the commercial name as indicated in Annex I;
- (b) a clear indication that the material is of a quality suitable for use for the extraction of food or food ingredients;
- (c) a reference by which the batch or lot may be identified;
- (d) the name or business name and address of the manufacturer or packer or of a seller established in the territory of the EU;
- (e) the net quantity given as units of volume; and
- (f) if necessary, the special storage conditions or conditions of use.

(2) The particulars specified in paragraph 1(c), (d), (e) and (f) may alternatively appear on the trade documents relating to the batch or lot which are to be supplied with, or prior to, the delivery.

(3) The information specified in paragraph (1) must be easily visible, clearly legible and indelible.

(4) The information specified in paragraph (1) may be provided in more than one language, but at least one of those languages must be easily understood by the purchaser unless other measures have been taken to ensure that the purchaser is informed of the specified information.

## PART 4

### Administration and enforcement

#### Competent authorities

15. The competent authority for the purpose of Article 7 of Regulation 2065/2003 is the Food Standards Agency.

#### Enforcement authorities

16. It is the duty of each district council within its district to execute and enforce these Regulations and the EU Regulations.

#### Offences and penalties

17.—(1) Any person who contravenes regulation 12 or 13(1) commits an offence.

(2) Any person guilty of an offence under regulation 3, 4, 5, 6, or 17(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Condemnation of food

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

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

19. The provisions of the Order specified in column 1 of Schedule 5 apply, with the modifications specified in column 2 of that Part for the purposes of these Regulations.

## PART 5

### General

#### Consequential and other amendments

20. In regulation 2(1) (interpretation) of the Food Labelling Regulations (Northern Ireland) 1996(13), in the definition of “the additives regulations” omit the expression “the Food Additives Regulations (Northern Ireland) 1999”.

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(13) S.R. 1996 No. 383. Relevant amending rules are S.R. 2010 No. 414 and S.R. 2012 No. 384

**Revocations**

21. The rules listed in the first column of Schedule 6 are revoked to the extent specified in the second column.

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 11th September 2013.



*Andrew McCormick*  
A senior officer of the Department of Health,  
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