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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 383**

**Food Labelling Regulations (Northern Ireland) 1996**

**Part IV**

**Offences and Legal Proceedings**

**Offences and penalties**

**44.** If any person—

- (a) sells any food which is not marked or labelled in accordance with the provisions of Part II,
- (b) sells or advertises for sale any food in respect of which a claim is made, nutrition labelling is given or a description or a name is used in contravention of the provisions of Part III,
- (c) sells any food from a vending machine in contravention of regulation 29,
- (d) sells any food after the date shown in a “use by” date relating to it, or
- (e) being a person other than whichever of—
  - (i) the manufacturer,
  - (ii) the packer, or
  - (iii) the seller established within the European Community,

was originally responsible for so marking the food, removes or alters the appropriate durability indication relating to that food, 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.

**Enforcement**

**45.—**(1) Subject to paragraph (2), these Regulations shall be enforced and executed by each district council within its district.

(2) The Department of Agriculture shall enforce and execute these Regulations in relation to any dairy farm, any liquid milk plant and insofar as they relate to the sale of raw milk which is drinking milk, in relation to any farm premises or any processing establishment which comprises part of any farm premises.

(3) In this regulation “farm premises” and “processing establishment” have the meaning assigned to them by the Dairy Products (Hygiene) Regulations (Northern Ireland) 1995(1).

**Defence in cases of alteration of appropriate durability indication**

**46.** In any proceedings for an offence under regulation 44(1)(e) it shall be a defence for the person charged to prove that each removal or alteration in respect of which the offence is alleged was effected under the written authorisation of a person capable of effecting that removal or alteration without contravention of that provision.

### Defence in relation to exports

**47.** In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

- (a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that it complies with that legislation; and
- (b) that the legislation complies with the provisions of Council Directive [79/112/EEC](#)(**2**) on the approximation of the laws of the member States relating to the labelling, presentation and advertising of foodstuffs, as amended(**3**), in the case of export to an EEA State.

### Application of various provisions of the Order

**48.** The following provisions of the Order shall apply for the purposes of these Regulations as they apply for the purposes of Article 7, 13 or 14 of the Order and any reference in them 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 (offences due to fault of another person);
- (d) Article 20 (defence of due diligence);
- (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).

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(2) O.J. No. L33, 8.2.79, p. 1

(3) Act concerning the Conditions of Accession and Adjustment to the Treaties — Accession to the European Communities of the Kingdom of Spain and the Portuguese Republic (O.J. No. L302, 15.11.85, p. 218), Council Directive [85/7/EEC](#) (O.J. No. L2, 3.1.85, p. 22), Council Directive [86/197/EEC](#) (O.J. No. L144, 29.5.86, p. 38), Council Directive [89/395/EEC](#) (O.J. No. L186, 30.6.89, p. 17), Commission Directive [91/72/EEC](#) (O.J. No. L42, 15.2.91, p. 27), Commission Directive [93/102/EEC](#) (O.J. No. L291, 25.11.93, p. 14), as read with the EEA Agreement (O.J. No. L1, 3.1.94, p. 1)