

1992 No. 281

FOOD

The Food (Lot Marking) Regulations (Northern Ireland) 1992

Made 22nd June 1992

Coming into operation 22nd July 1992

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 15(1)(e), 16(1), 25(1)(a) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(a) and of all other powers enabling it in that behalf and after consultation in accordance with Article 47(3) of that Order with such organisations as appear to it to be representative of interests likely to be substantially affected by these Regulations, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food (Lot Marking) Regulations (Northern Ireland) 1992 and shall come into operation on 22nd July 1992.

Interpretation and scope

2. In these Regulations—

“food” has the meaning which it has in Article 15(5) of the Order;

“the labelling Regulations” means the Food Labelling Regulations (Northern Ireland) 1984(b), and “indication of minimum durability” and ““use by” date” have the same meanings as in the labelling Regulations;

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

“prepacked” has the meaning assigned to it by the labelling Regulations;

“sale” includes possessing for sale, offering for sale and exposing for sale;

“ultimate consumer” has the meaning assigned to it by the labelling Regulations.

Lot marking requirement

3.—(1) Subject to the following provisions, no person shall sell any food to which a lot marking obligation applies unless the lot marking rules are observed in relation to that sale.

(2) For the purposes of these Regulations—

(a) S.I. 1991/762 (N.I. 7). See Article 2(2) for the definitions of “regulations” and “the Department concerned”
(b) S.R. 1984 No. 407; the relevant amending Regulations are S.R. 1990 No. 440

- (a) food is food to which a lot marking obligation applies if it comprises—
- (i) a production sales unit, that is to say a sales unit of food produced as part of a batch of such sales units produced under similar conditions,
 - (ii) a preparation sales unit, that is to say a sales unit of food prepared as part of a batch of such sales units prepared under similar conditions, or
 - (iii) a packaging sales unit, that is to say a sales unit of food packaged as part of a batch of sales units packaged under similar conditions, and
- (b) a sales unit of food comprises food in the process of being, or which can reasonably be expected to be, sold as an identifiable unit.

(3) The Schedule specifies how lot marking rules are observed in relation to any sale of food.

Exception for particular types of sale

4. Nothing in these Regulations requires the lot marking rules to be observed in relation to any sale of food where—

- (a) the food comprises an agricultural product and, in connection with that sale, it leaves the agricultural premises of its production—
 - (i) for delivery to a temporary storage, preparation or packaging station, or to a producers' organisation, or
 - (ii) for collection for immediate integration into an operational preparation or processing system, or
- (b) the sale is a sale to the ultimate consumer in circumstances where the food is not prepacked, is prepacked for direct sale or is packed at the request of the purchaser.

Exception for sales units marked or labelled with indication of minimum durability or "use by" date

5.—(1) Nothing in these Regulations requires a sales unit to bear any lot marking indication where—

- (a) it is marked or labelled at the time of its sale with an indication of minimum durability or a "use by" date, and
- (b) that marking or labelling has been carried out in accordance with the labelling Regulations.

(2) Where a sale is not one to which the labelling Regulations apply, but the sales unit is marked or labelled in such a manner as would accord with the labelling Regulations were the sale one to which they applied that marking or labelling shall be treated for the purposes of paragraph (1) as having been carried out in accordance with the labelling Regulations.

Exception for particular types of sales units

6. Nothing in these Regulations requires a sales unit—

- (a) which is in a container the area of the largest side of which is less than 10 cm²,

(b) which comprises food which—

(i) is prepacked, and

(ii) is sold at a catering establishment for immediate consumption there, and

(iii) is sold as an individual portion, and

(iv) is intended as an accompaniment to another food, or

(c) which comprises an individual portion of an edible ice supplied to its seller in bulk packaging containing more than one such portion and bearing the lot marking indication which that portion would, but for this paragraph, have been required to bear,

to bear a lot marking indication.

Transitional exceptions

7.—(1) Nothing in these Regulations requires a sales unit the marking or labelling of which was completed before 22nd July 1992 to bear a lot marking indication.

(2) Nothing in these Regulations requires a sales unit to bear a lot marking requirement in any sale which is completed before 1st January 1997 where the sales unit is in a glass bottle intended for re-use which is indelibly marked and therefore bears no label, ring or collar.

Penalties and enforcement

8.—(1) If any person contravenes regulation 3 he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,000.

(2) Each district council shall enforce and execute these Regulations in its district.

Application of provisions of the Order

9. The following provisions of the Order shall apply for the purposes of these Regulations as they apply for the purposes of the Order—

(a) Articles 2(4) and 3 (extended meaning of “sale” etc);

(b) Article 4 (presumptions that food is intended for human consumption);

(c) Article 20 (defence of due diligence).

Sealed with the Official Seal of the Department of Health and Social Services on 22nd June 1992.

(L.S.)

J. R. Kearney

Assistant Secretary

OBSERVANCE OF LOT MARKING RULES

1. The lot marking rules are observed in relation to the sale of food where each sales unit sold in that sale bears its lot marking indication.

2. For the purposes of this Schedule a sales unit of food bears its lot marking indication where—

(a) the sales unit is prepacked and its lot marking indication appears on the prepackaging or on a label attached to the prepackaging, or

(b) the sales unit is not prepacked and its lot marking indication appears on a container in which the sales unit is contained or on a commercial document accompanying the sales unit,

and that lot marking indication appears in such a way as to be easily visible, clearly legible and indelible.

3. For the purposes of this Schedule—

(a) the lot marking indication of a sales unit is an indication, determined by a lot marking determiner (and affixed so that it falls within paragraph 2 either under his responsibility or under the responsibility of another lot marking determiner), which indication—

(i) is preceded by the letter "L" except in cases where that indication is clearly distinguishable from other indications relating to the sales unit, and

(ii) identifies an appropriate batch within which the sales unit falls,

(b) the lot marking determiner of a sales unit is either its first seller established within the European Economic Community or—

(i) where the sales unit is a production, preparation and packaging sales unit, its producer, preparer or packer,

(ii) where the sales unit is a production and preparation sales unit, its producer or preparer,

(iii) where the sales unit is a production and packaging sales unit, its producer or packer,

(iv) where the sales unit is a preparation and packaging sales unit, its preparer or packer,

(v) where the sales unit is a production sales unit, its producer,

(vi) where the sales unit is a preparation sales unit, its preparer, and

(vii) where the sales unit is a packaging sales unit, its packer, and

(c) an appropriate batch within which a sales unit falls is any batch of which that sales unit comprises a production sales unit, a preparation sales unit or a packaging sales unit.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement Council Directive 89/396/EEC (O.J. No. L186, 30.6.89, p. 21), as amended by Council Directives 91/238/EEC (O.J. No. L107, 27.4.91, p. 50) and 92/11/EEC (O.J. No. L65, 11.3.92, p. 32), on indications and marks identifying the lot to which a foodstuff belongs. Subject to exceptions the Regulations require food which has been produced, prepared or packaged as part of a lot to be so marked or labelled as to enable the lot to be identified (regulation 3).