

2013 No. 219

FOOD

The Fish Labelling Regulations (Northern Ireland) 2013

Made - - - - *9th September 2013*

Coming into operation - *7th October 2013*

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The Department of Health, Social Services and Public Safety^(a) 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^(b), and paragraph 1A of Schedule 2 to the European Communities Act 1972^(c).

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) 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) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51)

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Health, Social Services and Public Safety that it is expedient for references in these Regulations to the following Regulations to be construed as references to those Regulations as amended from time to time—

- (a) Council Regulation (EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products^(a);
- (b) 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^(b);
- (c) Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy^(c); and
- (d) 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^(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^(e), 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 Fish Labelling Regulations (Northern Ireland) 2013 and come into operation on 7th October 2013.

Interpretation

2.—(1) In these Regulations—

“the EU Regulations” means Regulation 104/2000, Regulation 2065/2001, Regulation 1224/2009 and Regulation 404/2011;

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

“Regulation 104/2000” means Council Regulation (EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products;

“Regulation 2065/2001” means 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;

“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; and

“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.

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

(a) OJ No. L17, 21.1.2000, p.22, as last amended by OJ No. L349, 19.12.2012 p.4
(b) OJ No. L278, 23.10.2001, p.6, as last amended by OJ No. L362, 20.12.2006, p.1
(c) OJ No. L343, 22.12.2009, p1
(d) OJ No. L112, 30.4.2011, p 1, as amended by OJ No. L328, 10.12.2011, p.58
(e) OJ No.L31, 1.2.2002, p.1. as last amended by OJ No. L188, 18.7.2009, p 14

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

(4) The Interpretation Act (Northern Ireland) 1954(a) applies to these Regulations as it applies to an Act of the Assembly.

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 (4) to (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—

(a) a requirement specified in Article 4(1) of Regulation 104/2000 (provision of consumer information) as read with the following provisions of Regulation 2065/2001—

(i) Articles 2 and 3 (commercial designation),

(ii) Article 4(1) and (3) (production method),

(iii) Article 5 (catch area), and

(iv) Article 6 (combination sales); and

(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 and Article 67(1) to (3) and (5) to (13) of Regulation 404/2011.

(4) The requirement specified in Article 4(1) of Regulation 104/2000 as read with Article 4(1) of Regulation 2065/2001 does not apply in circumstances described in Article 4(2) of Regulation 2065/2001.

(5) The requirement specified in Article 4(1) of Regulation 104/2000 as read with Article 5(1)(c) of Regulation 2065/2001 does not preclude the indication of various member States or third countries as described in Article 5(1)(c) of Regulation 2065/2001.

(6) The requirement referred to in paragraph (2)(a) does not apply in circumstances described in the last paragraph of Article 4(1) of Regulation 104/2000, as read with the last sentence of Article 7 of Regulation 2065/2001, where each purchase does not exceed the sterling equivalent of 20 euros, or, in the case of direct sale from a fishing vessel, 50 euros.

(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.

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;

(a) 1954 c.33 (NI)

- (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^(a) are revoked.

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



Andrew McCormick

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

^(a) S.R. 2010 No. 54

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)	
Article 34 (obstruction etc of officers)	
Article 36 (1) and (2) (punishment of offences)	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” 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.”

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”

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.”.

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).

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).

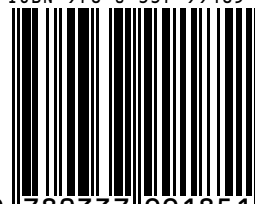
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£5.75

N5930 09/2013 435930T 19585

ISBN 978-0-337-99185-1



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