
EXPLANATORY MEMORANDUM

(This note is not part of the Regulations)

These Regulations provide for the execution and enforcement of the following EU Regulations —

- (a) 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 (OJ No. L309, 26.11.2003, p.1);
- (b) Regulation (EC) No 1332/2008 of the European Parliament and of the Council on food enzymes (OJ No. L354, 31.12.2008, p.7);
- (c) Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives (OJ No. L354, 31.12.2008, p.16);
- (d) 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 (OJ No. L354, 31.12.2008, p.34).

These Regulations also implement 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 (OJ No. L141, 6.6.2009, p.3).

These Regulations revoke, in whole or in part, the following Regulations —

- (a) The Extraction Solvents in Food Regulations (Northern Ireland) 1993 (S.R. 1993 No. 330);
- (b) The Smoke Flavourings Regulations (Northern Ireland) 2005 (S.R. 2005 No. 76);
- (c) The Food (Suspension of the Use of E128 Red 2G Food Colour) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 352);
- (d) The Food Enzymes Regulations (Northern Ireland) 2009 (S.R. 2009 No. 415);
- (e) The Food Additives Regulations (Northern Ireland) 2009 (S.R. 2009 No. 416);
- (f) The Flavourings in Food Regulations (Northern Ireland) 2010 (S.R. 2010 No. 414).

These Regulations, in Part 2, provide that it is an offence, subject to any applicable transitional arrangements, to contravene or to use or place on the market a product that contravenes specified requirements of —

- (a) Regulation (EC) No 1333/2008 relating to food additives (*regulation 3 and Table 1 of Schedule 1*);
- (b) Regulation (EC) No 1334/2008 relating to food flavourings and foods with flavouring properties (*regulation 4 and Table 1 of Schedule 2*);
- (c) Regulation (EC) No 2065/2003 relating to smoke flavourings (*regulation 5 and Table 1 of Schedule 3*); and
- (d) Regulation (EC) No 1332/2008 relating to food enzymes (*regulation 6 and Table 1 of Schedule 4*).

These Regulations also provide in Part 2 that in the case of certain types of non-compliance, relating to labelling, an officer of an enforcement authority may serve an improvement notice under Article 9 of the Food Safety (Northern Ireland) Order 1991 as applied and modified by these Regulations requiring specified steps to be taken, failing which an offence will be committed (*regulation 7*). A person served with an improvement notice may appeal against it to a magistrates court under Article 37 of the Order (*regulation 8*).

Status: This is the original version (as it was originally made).

Part 3 of these Regulations implement Directive 2009/32/EC relating to extraction solvents, in particular by —

- (a) specifying the circumstances where the controls on extraction solvents do not apply (*regulation 10*);
- (b) defining what constitutes a permitted extraction solvent (*regulation 11*);
- (c) prohibiting any person from using an extraction solvent other than a permitted extraction solvent, as defined, in the production of food (*regulation 12*);
- (d) prohibiting any person from placing on the market an extraction solvent that is not a permitted extraction solvent or which is not accompanied by certain information on the packaging, container or label (*regulations 13 and 14*).

These Regulations in Part 4 —

- (a) designate the Food Standards Agency as the competent authority for the purposes of applications for authorisation of a smoke flavouring (*regulation 15*);
- (b) assign the duty of enforcing these Regulations to district councils (*regulation 16*);
- (c) provide for the maximum penalty to which a person may be liable on conviction for an offence under these Regulations (*regulation 17*);
- (d) provide that, where food is certified as being food which it is an offence to place on the market, the food will be treated for the purposes of Article 8 of the Food Safety (Northern Ireland) Order 1991 as failing to comply with food safety requirements (*regulation 18*); and
- (e) apply, with certain modifications, various provisions of the Food Safety (Northern Ireland) Order 1991 for the purposes of these Regulations (*regulation 19 and Schedule 5*).

These Regulations in Part 5 —

- (a) make a minor amendment to the Food Labelling Regulations (Northern Ireland) 1996 (*regulation 20*); and
- (b) revoke certain rules in whole or in part (*regulation 21 and Schedule 6*).