STATUTORY INSTRUMENTS.

S.I. No. 437 of 2000.

EUROPEAN COMMUNITIES (ADDITIVES, COLOURS AND SWEETENERS IN FOODSTUFFS) REGULATIONS, 2000.

I, MICHEÁL MARTIN, Minister for Health and Children, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive 89/107/EEC[1] of 21 December 1988 (as amended by European Parliament and Council Directive 94/34/EC[2] of 30 June 1994), European Parliament and Council Directive 94/35/EC[3] of 30 June 1994 (as amended by Directive 96/83/EC[4] of the European Parliament and of the Council of 19 December 1996), European Parliament and Council Directive 94/36/EC[5] of 30 June 1994, Commission Directive 95/31/EC[6] of 5 July 1995 (as amended by Commission Directive 98/66/EC[7] of 4 September 1998), and Commission Directive 95/45/EC[8] of 26 July 1995 (as amended by Commission Directive 1999/75/EC[9] of 22 July 1999), hereby make the following regulations:

[9]O.J. L206, 5.8.99, p19

[8]O.J. L226, 22.9.95, p1

[7]O.J. L257, 19.9.98, p35

[6]O.J. L178, 28.7.95, p1

[5]O.J. L237, 10.9.94, p13

[4]O.J. L48, 19.2.97, p16

[3]O.J. L237, 10.9.94, p3

[2]O.J. L237, 10.9.94, p1

[1]O.J. L40, 11.2.89, p27

PART I PRELIMINARY

1. These Regulations may be cited as the European Communities (Additives, Colours and Sweeteners in Foodstuffs) Regulations, 2000.

2. (1) In these Regulations—

"Act of 1998" means Food Safety Authority of Ireland Act, 1998 (No. 29 of 1998);

"authorised officer" means an officer appointed an authorised officer under Regulation 26;

"Authority" means Food Safety Authority of Ireland;

"approved examiner" has the meaning assigned to it by the European Communities (Official Control of Foodstuffs) Regulations, 1998 (S.I. No. 85 of 1998);

"the Directives" means Council Directive 89/107/EEC[10] of 21 December 1988 (as amended by European Parliament and Council Directive 94/34/EC of 30 June 1994), European Parliament and Council Directive 94/35/EC of 30 June 1994 (as amended by Directive 96/83/EC of the European Parliament and of the Council of 19 December 1996), European Parliament and Council Directive 94/36/EC of 30 June 1994, Commission Directive 95/31/EC of 5 July 1995 (as amended by Commission Directive 98/66/EC of 4 September 1998) and Commission Directive 95/45/EC of 26 July 1995 (as amended by Commission Directive 1999/75/EC of 22 July 1999);

[10]O.J. L40, 11.2.89, p27

"Directive 89/107/EEC" means Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption as amended by European Parliament and Council Directive 94/34/EC of 30 June 1994;

"Directive 89/398/EEC" means Council Directive 89/398/EEC[11] on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses, as amended by Directive 96/84/EC[12] of the European Parliament and of the Council of 19 December 1996 and Directive 1999/41/EC[13] of the European Parliament and of the Council of 7 June 1999;

[13]O.J. L172, 8.7.99, p38

[12]O.J. L48, 19.2.97, p20

[11]O.J. L186, 30.6.89, p27

"Directive 94/35/EC" means European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs as amended by Directive 96/83/EC of the European Parliament and of the Council of 19 December 1996;

"Directive 94/36/EC" means European Parliament and Council Directive 94/36/EC of 30 June 1994 on colours for use in foodstuffs;

"Directive 95/31/EC" means Commission Directive 95/31/EC of 5 July 1995 laying down specific criteria of purity concerning sweeteners for use in foodstuffs as amended by Commission Directive 98/66/EC of 4 September 1998;

"Directive 95/45/EC" means Commission Directive 95/45/EC of 26 July 1995 laying down specific purity criteria concerning colours for use in foodstuffs as amended by Commission Directive 1999/75/EC of 22 July 1999;

"Directive 96/83/EC" means Directive 96/83/EC of the European Parliament and of the Council of 19 December 1996 amending Directive 94/35/EC on sweeteners for use in foodstuffs;

"food additive" means any substance not normally consumed as a food in itself and not normally used as a characteristic ingredient of food whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing, preparation, treatment, packaging, transport or storage of such food results, or may be reasonably expected to result, in it or its by-products becoming directly or indirectly a component of such foods;

"functional area" means—

(*a*) in relation to a health board, the functional area of the health board as specified in the Health Board Regulations, 1970 (S.I. No. 170 of 1970);

(*b*) in relation to the Eastern Regional Health Authority, means its functional area as specified in section 7(4) of the Health (Eastern Regional Health Authority) Act, 1999 (No. 13 of 1999).

(2) A word or expression which is used in these Regulations and which is also used in the Directives, has, unless the context otherwise requires, the same meaning in these Regulations it has in the Directives.

(3) (*a*) A reference in these Regulations to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulation is intended.

(*b*) A reference in these Regulations to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

PART II GENERAL PROVISIONS

3. (1) Subject to paragraph (2), the food additives to which these Regulations apply and any foodstuffs containing any such additives may be marketed only if they comply with the provisions laid down in these Regulations and the Directives.

(2) Food additives to which Directive 96/83/EC apply and any foodstuffs containing any such additives placed on the market or labelled before 19 June, 1998 and not complying with these Regulations and Directive 96/83/EC may be marketed until stocks are used up.

4. (1) These Regulations shall apply to food additives the various categories of which are given in Annex 1 to Directive 89/107/EEC and which are used or intended to be used as ingredients during the manufacture or preparation of a foodstuff and are still present in the final product, even if in an altered form.

(2) These Regulations shall not apply to—

(*a*) processing aids,

(*b*) substances used in the protection of plants and plant products in conformity with Community rules relating to plant health,

(*c*) flavourings for use in foodstuffs used in accordance with Council Directive 88/388/EEC[14] of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production as amended by Commission Directive 91/71/EEC[15] of 16 January 1991, or

[15]O.J. L42, 15.2.1991, p25

[14]O.J. L184, 15.7.1988, p61

(*d*) substances added to foodstuffs as nutrients (such as minerals, trace elements or vitamins).

(3) In paragraph (2)(*a*) "processing aid" means any substance not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or their ingredients, to fulfil a certain technological purpose during treatment or processing and which may result in the unintentional but technically unavoidable presence of residues of the substance or its derivatives in the final product, provided that these residues do not present any health risk and do not have any technological effect on the finished product.

(4) Only those food additives which are included in lists drawn up pursuant to Article 3(3) of Directive 89/107/EEC may be used in the manufacture or preparation of foodstuffs and only under the conditions specified therein.

5. (1) The Authority may, in accordance with Article 4 of Directive 89/107/EEC, where it has detailed grounds for considering that the use of any food additive in food endangers human health, temporarily suspend or restrict for such period as it considers reasonable the use of that additive in foodstuffs.

(2) The manufacturer of any food additive, having been informed in writing of the suspension or restriction of the use of a food additive in foodstuffs, shall not market the additive while its use is suspended or restricted under paragraph (1).

(3) A person who places on the market any foodstuff, having been informed in writing of the suspension or restriction of the use of a food additive in foods, shall not place on the market any foodstuff containing that additive, and shall withdraw from the market any such foodstuff which has already been placed on the market, while its use is suspended or restricted under paragraph (1).

6. (1) The Authority may, in accordance with Article 5 of Directive 89/107/EEC, at the request of an applicant provisionally authorise the marketing and use of an additive from one of the categories listed in Annex I to Directive 89/107/EEC and not included in the relevant list, for a maximum period of two years.

(2) The Authority may require an applicant to submit any information it deems necessary in support of a request for a temporary authorisation.

(3) The Authority may set conditions on any authorisation, including any labelling requirements deemed necessary.

(4) The Authority shall communicate to the other Member States and to the Commission the text of any authorisation decision adopted pursuant to paragraph (1) within two months of the date on which the decision takes effect.

(5) The Authority may, before the two-year period stipulated in paragraph (1) has expired, request the Commission to include in the list adopted in accordance with Article 3, the additive which had been the subject of a temporary authorisation pursuant to paragraph (1).

7. (1) Subject to paragraph (2), food additives not intended for sale to the ultimate consumer may be marketed only if their packaging or containers bear the following information, which must be conspicuous, clearly legible and indelible:

(*a*) (i) for food sold singly or mixed with each other, for each additive, the name laid down by any Community provisions applying and its EEC number or, in the absence of such provisions, a description of the additive that is sufficiently precise to enable it to be distinguished from additives with which it could be confused, in descending order of the proportion by weight in the total;

(ii) when other substances or materials or food ingredients to facilitate storage, sale, standardization, dilution or dissolution of a food additive or food additives are incorporated in the additives, the name of the additive in accordance with subparagraph (i) and an indication of each component in descending order of the proportion by weight in the total;

(*b*) (i) either the statement for use in food',

(ii) the statement 'restricted use in food', or
(iii) a more specific reference to its intended food use;

(*c*) if necessary, the special conditions of storage and use;

(*d*) directions for use, if the omission thereof would preclude appropriate use of the additive;

(*e*) a mark identifying the batch or lot;

(*f*) the name or business name and address of the manufacturer or packager, or of a seller established within the Community;

(*g*) an indication of the percentage of any component which is subject to a quantitative limitation in a food or adequate compositional information to enable the purchaser to comply with any Community provisions, or, in their absence, national provisions applying to the food. Where the same quantitative limitation applies to a group of

components used singly or in combination, the combined percentage may be given as a single figure;

(*h*) the net quantity;

(i) any other information provided for in the comprehensive Directive referred to in Article 3 of Directive 89/107/EEC.

(2) The information required under paragraph (1)(a)(i) and paragraphs (d) to (g) may appear merely on the documents relating to the consignment which are to be supplied with or prior to the delivery, provided that the indication "intended for the manufacture of foodstuffs and not for retail sale" appears as a conspicuous part of the packaging or container of the product in question.

8. Food additives intended for sale to the ultimate consumer may be marketed only if their packagings or containers bear the following information, which must be conspicuous, clearly legible and indelible:

(*a*) the name under which the product is sold. This name shall be constituted by the name laid down by any Community provisions applying to the product in question plus its EEC number or, in the absence of such provisions, by a description of the product that is sufficiently precise to enable it to be distinguished from products with which it could be confused;

(*b*) the information required by subparagraphs (*a*) to (*f*), and (*h*) of Regulation 7(1);

(*c*) the date of minimum durability within the meaning of Article 9 of directive 2000/13/EEC[16] of the European Parliament and of the Council of 20 March 2000;

[16]O.J. L109, 6.5.2000, p29

(*d*) any other information provided for in the comprehensive directive referred to in Article 3 of Directive 89/107/EEC.

9. The manufacturer of, or any person who places on the market, any foodstuff containing a food additive shall ensure that the particulars provided for in Regulations 7 and 8 shall appear in the English language or the English and Irish languages on the packaging or labelling of the foodstuff, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages.

PART III SWEETENERS

10. (1) This Part shall apply to food additives (referred to in this Part as "sweeteners") which are used—

(*a*) to impart a sweet taste to foodstuffs, or

(*b*) as table-top sweeteners.

(2) In this Part, "with no added sugar" and "energy-reduced" in column III of the Annex to Directive 94/35/EC (as supplemented by the Annex to Directive 96/83/EC) shall be defined as follows:

(*a*) "with no added sugar" means without any added mono- or disaccharides or any other foodstuff used for its sweetening properties;

(*b*) "energy-reduced" means with an energy value reduced by at least 30 per cent compared with the original foodstuff or a similar product.

(3) This Part shall also apply to the corresponding foodstuffs intended for particular nutritional uses within the meaning of Directive 89/398/EEC.

(4) This Part shall not apply to foodstuffs with sweetening properties.

11. Only sweeteners listed in the Annex to Directive 94/35/EC (as supplemented by the Annex to Directive 96/83/EC) may be placed on the market with a view to—

(*a*) sale to the ultimate consumer, or

(*b*) use in the manufacture of foodstuffs.

12. (1) Sweeteners referred to in Regulation 11(b) may only be used in the manufacture of the foodstuffs listed in the Annex under the conditions specified therein.

(2) Sweeteners may not be used in food for infants and young children as referred to in Directive 89/398/EEC, including food for infants and young children who are not in good health, unless otherwise laid down in specific provisions.

(3) The maximum usable doses indicated in the Annex refer to ready-to-eat foodstuffs prepared according to instructions for use.

(4) The manufacturer of any foodstuff containing a sweetener shall comply with this Regulation.

(5) A person shall not place on the market any foodstuff containing a sweetener which, he or she knows or in the circumstances ought to know, does not comply with these Regulations.

(6) in the Annex "*quantum satis*" means that no maximum level is specified. However, sweeteners shall be used in accordance with good manufacturing practice, at a dose level not higher than is necessary to achieve the intended purpose and provided the consumer is not misled.

(7) In this Regulation "the Annex" means the Annex to Directive 94/35/EC (as supplemented by the Annex to Directive 96/83/EC).

13. Without prejudice to other European Community provisions, the presence of a sweetener in a foodstuff is permissible:

(*a*) in compound foodstuffs with no added sugar or energy-reduced, in compound dietary foodstuffs intended for a low-calorie diet and in compound foodstuffs with a long shelf-life, other than those mentioned in Regulation 12(2), insofar as the sweetener is permitted in one of the ingredients of the compound foodstuff, or

(*b*) if the foodstuff is intended to be used solely in the preparation of a compound foodstuff which conforms with this Part.

14. (1) This Part shall apply without prejudice to specific directives permitting additives listed in the Annex to Directive 94/35/EC (as supplemented by the Annex to Directive 96/83/EC) to be used for purposes other than sweetening.

(2) This Part shall also apply without prejudice to Community provisions governing the composition and the description of foodstuffs.

15. (1) The manufacturer of, or any person who places on the market, a table-top sweetener shall ensure that—

(*a*) the sales description of the table-top sweetener includes the term ".....-based table-top sweetener" using the name(s) of the sweetening substance(s) used in its composition, and

(*b*) the labelling of a table-top sweetener, containing polyols or aspartame or both, bears the following warnings—

(i) in the case of polyols, "excessive consumption may induce laxative effects", and

(ii) in the case of aspartame, "contains a source of phenylalanine".

16. (1) The manufacturer of a product containing a sweetener shall comply with the purity criteria for the relevant sweetener as set out in the Annex to Directive 95/31/EC.

(2) A person shall not place on the market any product which contains a sweetener which, he or she knows or in the circumstances ought to know, does not comply with purity criteria for the sweetener as set out in the Annex to Directive 95/31/EC.

PART IV COLOURS

17. In this Part—

"colours" means substances, being food additives, which add or restore colour in a food, and includes—

(*a*) natural constituents of foodstuffs and natural sources which are normally not consumed as foodstuffs as such and not normally used as characteristic ingredients of food,

(*b*) preparations obtained from foodstuffs and other natural source materials obtained by physical or chemical extraction or both resulting in a selective extraction of the pigments relative to the nutritive or aromatic constituents,

but does not include the following substances—

(*c*) foodstuffs, whether dried or in concentrated form and flavourings incorporated during the manufacturing of compound foodstuffs, because of their aromatic, sapid or nutritive properties together with a secondary colouring effect, such as paprika, turmeric and saffron,

(*d*) colours used for the colouring of the inedible external parts of foodstuffs, such as cheese coatings and sausage casings.

"*quantum satis*" in the Annexes to Directive 94/36/EC, means that no maximum level is satisfied. However, permitted colours referred to in the Annexes shall be used in foodstuffs according to good manufacturing practice at a level not higher than is necessary to achieve the intended purpose and provided that they do not mislead the consumer.

"unprocessed" has the meaning assigned to it by Article 2(11) of Directive 94/36/EC.

18. (1) Only the substances listed in Annex I may be used as colours in foodstuffs.

(2) Colours may be used only in the foodstuffs listed in Annexes III, IV and V and under the conditions specified therein; colours may be used in those same foodstuffs when they are intended for particular uses in accordance with Directive 89/398/EEC.

(3) Colours may not be used in the foodstuffs listed in Annex II, except where specifically provided for in Annex III, IV or V.

(4) Colours permitted for certain uses only are listed in Annex IV.

(5) Colours permitted in general in foodstuffs and the conditions of use therefor are listed in Annex V.

(6) The maximum levels indicated in the Annexes:

(*a*) relate to ready-to-eat foodstuffs prepared according to the instructions for use,

(*b*) refer to the quantities of colouring principle contained in the colouring preparation.

(7) For the purpose of health marking as provided in Directive 91/497/EEC[17] as amended, only E 155 Brown HT, E 133 Brilliant Blue FCF or E 129 Allura Red AC or an appropriate mixture of E 133 Brilliant Blue FCF and E 129 Allura Red AC, may be used.

[17] O.J. L268, 24.9.1991, p69

(8) Only those colours mentioned in Annex I may be used for the decorative colouring of eggshells or for the stamping of eggshells as provided in Regulation (EEC) No. 1274/91[18] as amended.

[18] O.J. L121, 16.5.1991, p11

(9) The manufacturer of any foodstuff containing a colour shall comply with this Regulation.

(10) A person shall not place on the market any foodstuff containing a colour which, he or she knows or in the circumstances ought to know, does not comply with these Regulations.

(11) In this Regulation "Annex" means an Annex to Directive 94/36/EC.

19. Only those colours listed in Annex I to Directive 94/36/EC, except E123, E127, E128, E154, E160b, E161g, E173 and E180, may be sold directly to consumers.

20. Without prejudice to other European Community provisions, the presence of a colour in a foodstuff is permissible:

(*a*) in a compound foodstuff other than one mentioned in Annex II to Directive 94/36/EC to the extent that the colour is permitted in one of the ingredients of the compound foodstuff.

or

(*b*) if the foodstuff is destined to be used solely in the preparation of a compound foodstuff and to such an extent that the compound foodstuff conforms with this Part.

21. (1) The manufacturer of a product containing a colour shall comply with the purity criteria for the relevant colour as set out in the Annex to Directive 95/45/EC (as supplemented by Directive 1999/75/EC).

(2) A person shall not place on the market any product which contains a colour which, he or she knows or in the circumstances ought to know, does not comply with the purity criteria for the colour as set out in the Annex to Directive 95/45/EC (as supplemented by Directive 1999/75/EC).

PART V ENFORCEMENT

22. These Regulations shall be enforced by a health board and the Eastern Regional Health Authority in its functional area.

23. These Regulations shall be deemed to be food legislation for the purposes of the Act of 1998 and the enforcement provisions contained in that Act shall accordingly apply for the purpose of ensuring compliance with these Regulations.

24. (1) Without prejudice to Regulation 23, the powers contained in the European Communities (Official Control of Foodstuffs) Regulations, 1998 (S.I. No. 85 of 1998), may be exercised for the purpose of ensuring compliance with these Regulations.

(2) An official certificate given in accordance with sub-article (1) of article 14 of these Regulations, may be given in evidence in a prosecution under these Regulations and shall be *prima facie* evidence of the matters contained therein, until the contrary is shown.

25. Without prejudice to Regulations 23 and 24, before entry into a service contract by a health board with the Authority under the Act of 1998, the powers contained in Regulations 26 to 30 may be exercised by an authorised officer for the purpose of ensuring compliance with these Regulations.

26. (1) The chief executive officer of a health board and the Regional Chief Executive of the Eastern Regional Health Authority may appoint in writing such and so many officers of the health board as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations in the functional area of the health board.

(2) A person appointed as an authorised officer under the European Communities (General Provisions on the Control of Additives, and in particular Colours and Sweeteners for use in Foodstuffs) Regulations, 1995 (S.I. No. 344 of 1995), and holding office as an authorised officer immediately before the making of these Regulations shall continue in office as if appointed under this Regulation.

(3) An authorised officer shall be furnished with a certificate of his or her appointment as an authorised officer and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by any person affected, produce the certificate to that person.

(4) For the purposes of ensuring compliance with these Regulations, after entering into a service contract between the Authority and a health board, the appointments referred to in paragraphs (1) and (2) shall continue in force.

27. (1) An authorised officer may for the purpose of ensuring that these Regulations are being complied with—

(*a*) require any employee of the health board, a former employee of the health board or any person otherwise currently or previously retained by the health board, or any person who carries or has carried on any trade, business or activity to which these Regulations relate or any person currently or previously employed in connection with that trade, business or activity to produce to him or her such records, and in the case of such information in a non-legible form to reproduce it in a permanent legible form, or to give him or her such information, as the officer may reasonably require in relation to any entries in such records,

(*b*) at all reasonable times enter any premises, subject to paragraph (2), at which there are reasonable grounds to believe that any trade, business or activity in connection with the production, processing, disposal, manufacture, exportation, importation, storage, distribution, sale, marketing or labelling for the purposes of marketing of any food additive or foodstuff to which these Regulations apply is or has been carried on, or that records in relation to such trade, business or activity are kept, and search and inspect the premises and any food additive, foodstuff, label or records found in or on the premises,

(*c*) secure for later inspection any premises or any part thereof in which such food additive, foodstuff, label or records are kept or there are reasonable grounds for believing that such food additive, foodstuff, label or records are kept,

(*d*) require any person in charge thereof or so employed therein, to produce to the officer such records and to give to the officer such information as the officer may reasonably require in relation to any entries in such records,

(*e*) inspect and take copies of or extracts from any such records (including in the case of information in a non-legible form a copy of or extract from such information in a permanent legible form),

(*f*) remove and retain the said food additive, foodstuff, labels or records for such period as may be reasonable for further examination or until the conclusion of any legal proceedings,

(*g*) as regards any food additive or foodstuff or any article or substance used in the manufacture or preparation of a food additive or foodstuff the officer finds at or in a premises, require any person in charge thereof or any person who appears to the officer to be in possession of the food additive or foodstuff or the article or substance, to supply without payment, for test, examination or analysis sufficient samples thereof,

(*h*) require any person to afford the officer such facilities and assistance within his or her control or responsibilities as are reasonably necessary to enable the officer to exercise any of the powers conferred on an authorised under this Regulation,

(*i*) require a person referred to in subparagraph (a) to give to the officer any information which the officer may reasonably require in regard to the trade, business or activity or in regard to the persons carrying on such trade, business or activity or employed in connection with that trade, business or activity,

(*j*) require any person referred to in subparagraph (a) by or on whose behalf data equipment is or has been used in relation to a business within the meaning of subparagraph (b) or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the officer all reasonable assistance in relation to its use thereto,

(*k*) summon, at any reasonable time, any other person being or having been an employee of the health board or retained or having been retained by the health board or employed in connection with the trade, business or activity under examination by the health board to give to the officer any information which the officer may reasonably require in regard to that trade, business or activity and to produce to the officer any records which are in that person's power or control,

(*l*) examine any procedure connected with the manufacture of a food additive or foodstuff, and

(*m*) exercise such other powers as may be necessary to ensure that these Regulations are being complied with.

(2) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (5) authorising such entry.

(3) Where an authorised officer in the exercise of the officer's powers under this Regulation is prevented from entering any premises an application may be made to the District Court under paragraph (5) for a warrant authorising such entry.

(4) An authorised officer where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer under this Regulation.

(5) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this Regulation held on or in any premises or any part of any premises or there is a product which an authorised officer requires to inspect for purposes of these Regulations or that such inspection is likely to disclose evidence of a contravention of these Regulations, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers or by a member of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter, if need be by reasonable force, the premises and exercise all or any of the powers conferred on an authorised officer under this Regulation.

(6) An application under paragraph (5) shall be made to the judge of the District Court in whose district court district the premises is situated.

28. (1) Where a sample of any product, article or substance is supplied pursuant to paragraph (1)(g) of Regulation 27 and where the division of the sample is reasonably practicable, the authorised officer concerned may divide the sample into not more than three approximately equal parts each of which he or she shall mark in such a way as to identify it as a part of the sample taken by the officer.

(2) The authorised officer shall mark, seal and fasten each part referred to in paragraph (1) in such a manner as its nature will permit, forward one part to a laboratory approved under the European Communities (Official Control of Foodstuffs) (Approved Laboratories) Order, 1998 (S.I. No. 95 of 1998), where it may be tested, examined or analysed for the purposes of these Regulations by an approved examiner, give or send one part to the seller, owner or person in apparent charge or control of the product, article or substance and retain the third part.

(3) Where an authorised officer takes a sample consisting of a product, article or substance contained in unopened containers and its division into parts—

(*a*) is not reasonably practicable, or

(*b*) might affect the composition or impede the proper analysis of the sample,

the provision of paragraph (1) as regards the division of samples into parts shall be deemed to be complied with if the authorised officer divides the containers into three lots and deals with each lot as if it were a sample as specified under paragraph (1).

29. (1) An approved examiner or a person under his or her direction shall analyse as soon as possible any sample of a product, article or substance submitted to him or her in pursuance of these Regulations and the approved examiner shall certify to the person who submitted the sample to him or her the result of such analysis.

(2) If an approved examiner finds that any sample analysed by him or her under paragraph (1) is diseased, contaminated or otherwise unfit for human consumption he or she should set out his or her findings in the form of certificate set out in the Schedule to these Regulations or a certificate in like form.

(3) An official certificate given in accordance with paragraph (1) may be given in evidence in a prosecution under these Regulations and shall be *prima facie* evidence of the matters contained therein, until the contrary is shown.

30. Where a sample of a product, article or substance is taken by an authorised officer in pursuance of these Regulations for analysis by an approved examiner, and where the seller, owner or person in apparent charge or control of such item requests in writing the results of such analysis, the request shall be made to the health board in whose area the sample was taken and the health board shall comply with such request.

31. (1) A person who fails to comply with these Regulations (other than Regulation 6(4), 27(2), 28, 29 or 30) is guilty of an offence.

(2) A person who falsely represents himself or herself to be an authorised officer is guilty of an offence.

(3) A person who—

(*a*) obstructs or interferes with an authorised officer in the exercise of the officer's powers under Regulation 27.

(*b*) fails to comply with a request from an authorised officer under Regulation 27, or

(*c*) makes a statement to an authorised officer which the person knows is false or misleading,

is guilty of an offence.

(4) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding six months, or both.

32. Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed, with the consent, connivance or approval of, or to be attributable to any neglect on the part of any director, manager, secretary or any other officer of such body or a person who was purporting to act in any such capacity, such person is also guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

33. An offence under these Regulations may be prosecuted by the health board or the Eastern Regional Health Authority in whose functional area the offence was committed.

34. The European Communities (General Provisions on the Control of Additives, and in particular Colours and Sweeteners for use in Foodstuffs) Regulations, 1995 (S.I. No. 344 of 1995), are revoked.

SCHEDULE

Regulation 29(2)

Form of official certificate to be given by an approved examiner.

European Communities (Additives, Colours and Sweeteners in Foodstuffs) Regulations, 2000.

Certificate of Analysis

To (1) .....

(1) Insert the name and address of the person submitting the sample for analysis.

I, the undersigned (2) .....

(2) Insert description (i.e. officer of Health Board etc.)

being the Approved Examiner for the purpose of Regulations 28 and 29 of the above Regulations certify that on

the ..... day of ..... 20 .....

a sample marked (3) .....

(3) Insert particulars of marking (e.g. name, date etc.)
Date .....
Number .....
Weight or Measure (4) .....

(4) This may be left unanswered if the sample cannot be conveniently weighed or measured or the weight or measurement is not material to the result of analysis.

was submitted to me by you and I certify that the sample has been analysed/examined by me or under my direction (5) and as a result I am of the opinion that (6)

(6) Here the approved examiner should specify the result of the analysis having regard to the provision of relevant legislation.

(5) State whether the analysis was carried out by an approved examiner or under his or her direction by deleting appropriate words ("by me" or "under my direction").

Observations: (7)

(7) Here the approved examiner may insert, at his or her discretion, his or her opinion whether the analysis indicates any addition, abstraction, deficiency or the presence of foreign matter or other defect and whether the composition or quality is thereby affected; any physical, chemical or other properties bearing on the composition or quality of the article; whether the article is injurious to health or unfit for human consumption; whether and in what respect a label and description relating to the sample is incorrect or misleading; and he or she may add any other observations as he or she may consider relevant.

I further certify that the sample has undergone no change which would affect my opinion/observations expressed above.

Certified by me this ..... day of ..... 20 .....

at (8) .....

(8) Insert the name and address of the laboratory carrying out the analysis/examination.

Name in BLOCK LETTERS ..... Status .....

Signature .....

_____

Official Stamp

NOTES

GIVEN under my Official Seal, this 19th day of December, 2000.

MICHEÁL MARTIN,

Minister for Health and Children.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations implement the Directives on food additives generally and on colours and sweeteners in particular. These Regulations should be read in conjunction with the Directives which are listed below:—

— Council Directive 89/109/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption as amended by European Parliament and Council Directive 94/34/EC of 30 June 1994;

— European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs as amended by Directive 96/83/EC of the European Parliament and of the Council of 19 December 1996;

— European Parliament and Council Directive 94/36/EC of 30 June 1994 on colours for use in foodstuffs;

— Commission Directive 95/31/EC of 5 July 1995 laying down specific criteria of purity concerning sweeteners for use in foodstuffs as amended by Commission Directive 98/66/EC of 4 September 1998;

— Commission Directive 95/45/EC of 26 July 1995 laying down specific purity criteria concerning colours for use in foodstuffs;

These Regulations revoke the European Communities (General Provisions on the Control of Additives, and in particular Colours and Sweeteners for use in foodstuffs) Regulations, 1995 (S.I. No. 344 of 1995).