

Statutory Rule 2000 No. 303

Food Irradiation Provisions Regulations (Northern Ireland) 2000

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STATUTORY RULES OF NORTHERN IRELAND

2000 No. 303

FOOD

Food Irradiation Provisions Regulations (Northern Ireland) 2000

<i>Made</i>	<i>18th October 2000</i>
<i>Coming into operation</i>	<i>27th November 2000</i>

Whereas in accordance with Article 18(2) of the Food Safety (Northern Ireland) Order 1991[1] it appears to the Department of Health, Social Services and Public Safety[2] that it is necessary or expedient -

- (a) for the purpose of securing that food complies with food safety requirements and in the interests of the public health; and
- (b) for the purpose of protecting or promoting the interests of consumers,

to make the following Regulations;

Now, therefore, that Department in exercise of the powers conferred by Articles 15(1) to (3), 16(1), 17(1), 18(1)(b), 25(3), 44 and 47(2) of, and paragraphs 1 and 4(b) of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991 and of every power enabling it in that behalf after consultation in accordance with Article 47(3) of the said Order of 1991 with

such organisations as appear to it to be representative of interests likely to be substantially affected by the Regulations and having regard, in accordance with Article 47(3A) of the said Order of 1991 to any relevant advice given by the Food Standards Agency, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food Irradiation Provisions Regulations (Northern Ireland) 2000 and shall come into operation on 27th November 2000.

Amendments to the Food (Control of Irradiation) Regulations (Northern Ireland) 1992

2. The Food (Control of Irradiation) Regulations (Northern Ireland) 1992[3] shall be amended in accordance with regulations 3 to 12.

3. In paragraph (1) of regulation 2 (interpretation) -

(a) there shall be inserted immediately after the definition of "the Agency" the following definitions -

**" "the Directives" means Directive 1999/2 and Directive 1999/3;
"Directive 1999/2" means the European Parliament and Commission Directive 1999/2/EC on the approximation of the laws of the member States concerning foods and food ingredients treated with ionising radiation[4];
"Directive 1999/3" means the European Parliament and Commission Directive 1999/3/EC on the establishment of a Community list of foods and food ingredients treated with ionising radiation[5];"; and**

(b) in the definition of "ionising radiation", for "0.5 Gy" in paragraph (a)(iii) there shall be substituted "0.01 Gy in the case of inspection devices which utilise neutrons and 0.5 Gy otherwise" and for "and 5 MeV otherwise" there shall be substituted ", 14 MeV in the case of neutrons and 5 MeV otherwise".

4. After regulation 6 (restriction on sale) there shall be inserted the following regulation -

**" Labelling of non-consumer foods
6A. - (1)**

(a) In the case of foods subject to treatment by ionising radiation not intended for sale to the ultimate consumer or catering establishments "irradiated" or "treated with ionising radiation" shall be indicated on the documents which accompany or refer to those foods;

(b) either the identity and address of the facility which carried out the irradiation, or the official reference number, shall be indicated on the documents referred to in sub-paragraph (a).

(2) In this regulation "ultimate consumer" and "catering establishment" have the meaning given in regulation 2(1) of the Food Labelling Regulations (Northern Ireland) 1996[6]; and "the official reference number" is that referred to in Article 7.1 of Directive 1999/2."

5. For regulation 8 (defence in relation to exports) there shall be substituted -

" In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that the food, in respect of which the offence is alleged to have been committed, was intended for export to a country which is not a member of the European Community, that that country had legislation analogous to these Regulations and that the food complies with such legislation."

6. In Schedule 1 (irradiation licences), in Part I (issue of irradiation licences), in paragraph 1 -

(a) the words "and how that would benefit consumers" shall be inserted at the end of sub-paragraph (f)(i);

(b) the following sub-paragraph shall be inserted between sub-paragraphs (f) and (g) -

" (fa) in respect of each description of food specified pursuant to sub-paragraph (e), particulars demonstrating that his operation will be in conformity with Annex III to Directive 1999/2 and the Joint FAO/WHO Codex Alimentarius Commission Recommended International Code of Practice for the operation of irradiation facilities used for the treatment of foods ("the Code of Practice") [reference FAO/WHO/CAC, vol. XV, edition 1],";

(c) the following sub-paragraph shall be inserted between sub-paragraphs (g) and (h) -

" (ga) details of the person who has been designated to be responsible for compliance with the conditions necessary for application of the practices referred to in sub-paragraph (g),".

7. In Schedule 1, in Part I, in paragraph 3 -

(a) immediately before sub-paragraph (1)(b) there shall be inserted the following -

" (aa) that the irradiation will be performed in conformity with the Code of Practice,";

(b) in sub-paragraph (1)(g), after "paragraph 1(f)(iv)" there shall be inserted "are in conformity with Annex III to Directive 1999/2 and";

(c) in sub-paragraph (1)(h) "and" at the end shall be omitted;

(d) after sub-paragraph (1)(i) there shall be added the following -

**" and
(j) that the irradiation will be of benefit to the consumer,"; and**

(e) in paragraph 4, for "sub-paragraphs (1)(a) to (i)" there shall be substituted "sub-paragraphs (1)(a) to (j)".

8. In Schedule 1, in Part II (conditions of irradiation licences) -

(a) in paragraph 9(1) there shall be inserted at the beginning "The licence shall prohibit the applicant from subjecting any food to treatment by ionising radiation in combination with any chemical treatment having the same purpose as that treatment." ;

(b) the contents of paragraph 15 shall be numbered "(1)" and there shall be added the following sub-paragraph -

" (2) The licence shall require the applicant to preserve the records referred to in sub-paragraph (1) for a period of 5 years after making.";

(c) for paragraph 16(1) there shall be substituted the following -

" (1) The licence shall require the applicant to send to the licensing authority within twenty-eight days after each anniversary of the date from which the licence runs a written return in respect of the year ending with that anniversary."; and

(d) for paragraph 18 (duration) there shall be substituted the following -

" Duration

18. The licence shall, subject to Part III, continue in effect unless withdrawn or suspended in accordance with the provisions of Part IV or surrendered by the applicant to the licensing authority; and existing licenses shall be construed accordingly."

9. In Schedule 1, in Part III (alteration of conditions of irradiation licence), for paragraph 1(1) there shall be substituted the following -

" (1) The licensing authority and the applicant may, subject to paragraph 2, and to payment by the applicant to the licensing authority of a charge therefor (hereinafter referred to as "a variation agreement charge"), agree to vary -

(a) the term of the licence inserted by virtue of paragraph 4 of Part II[7], but only if the licence will if so varied apply to the same one of the seven permitted descriptions of food that it did prior to the variation; and in deciding whether or not to agree to vary that term the licensing authority shall consider whether it is satisfied that the conditions of the licence inserted by virtue of paragraph 5 or 6 of Part II are appropriate to the new description of food, or should be varied, and whether any new conditions should be inserted;

(b) any condition of a licence inserted by virtue of paragraph 5 or 6 of Part II."

10. In Schedule 1, in Part IV (cancellation, suspension and extension of irradiation

licence) -

- (i) in the heading "*Cancellation, suspension and extension of irradiation licence*" for "*, suspension and extension*" there shall be substituted "*and suspension*";
- (ii) paragraphs 4 and 5 shall be revoked.

11. In Schedule 1, in Part VI (charges) -

(a) for paragraph 1 there shall be substituted the following -

" 1. For the purposes of this Schedule -

(a) the amount of the application consideration charge is £5,000 plus -

- (i) if more than one description of food is specified by virtue of paragraph 1(e) of Part I, a sum (fixed at the discretion of the licensing authority) no greater than $£1,500 \times A$ where A is one less than the number of descriptions of food so specified; and
- (ii) if the application (however many descriptions of food the application relates to) falls within paragraph 3(3) of Part I, a sum (fixed at the discretion of the licensing authority) no greater than the sum which would otherwise have been payable in respect of the original application;

(b) the amount of the inspection charge is £750 for each inspection carried out in respect of which an inspection charge is payable;

(c) the amount of the variation agreement charge is -

- (i) in the case of a variation pursuant to paragraph 1(1)(a) of Part III whereby the licence, if varied, will apply to a description of food not specified in the term of the licence inserted by virtue of paragraph 4 of Part II which specifies each description of food to which the licence applies, a sum (fixed at the discretion of the licensing authority) no greater than $£1,500 \times (B-C)$ where B is the number of descriptions of food to which the licence, if varied, will apply and C is the number of descriptions of food specified in the term; and
- (ii) £500 in any other case."

(b) in paragraph 2 -

- (i) for "other than a pure continuation licence, £1,800" in sub-paragraph (a) there shall be substituted ", £1,500"; and
- (ii) for "£2,700" in sub-paragraph (b) there shall be substituted "£2,250".

12. For Schedule 2 (importation of food) there shall be substituted the following -

" SCHEDULE 2

Regulation 4

Importation of Food

PART I:

Importation from other member States

- 1. This Part applies to the importation of food irradiated in other member States.**
- 2. For the purposes of regulation 4 -**

- (a) "recognised appropriate origin" means origin in a plant, authorised by the Competent Authority of that State, which is listed in the Official Journal of the European Communities pursuant to Article 4.6 of Directive 1999/2; and**
- (b) "appropriate documentation" means documentation containing the information referred to in regulation 6A(1)(b).**

PART II:

Importation from third countries

- 1. This Part applies to the importation of food irradiated in a country (or territory) outside the European Community.**
- 2. In the case of herbs and spices, for the purposes of regulation 4 -**
 - (a) "recognised appropriate origin" means origin in a plant approved pursuant to Article 9 of Directive 1999/2, and listed in the Official Journal of the European Communities pursuant to that Article; and**
 - (b) "the appropriate documentation" means the documents referred to in the second indent of paragraph 1 of the said Article 9.**
- 3. In the case of food other than herbs and spices -**
 - (1) Recognition of appropriate origin shall be effected by publication by the Agency of a notice in the London Gazette declaring that an origin is an appropriate origin for the purposes of these Regulations.**
 - (2) "Origin" means, in relation to a country or territory specified in the notice, origin in that country or territory.**

(3) Recognition of appropriate origin may not be effected by the Agency in respect of any country unless it is satisfied -

(a) that in that country food which is subjected to treatment by ionising radiation may only be so subjected if the person who subjects it has a current irradiation licence granted, under a reference by which that licence can be identified, by a competent authority in that country,

(b) that any irradiation licence granted in that country includes provision for an approved method of measurement relating to food to which the licence relates, and

(c) that the operation of the legislation in force in that country relating to the subjection there of food to treatment by ionising radiation protects human health to an extent not less than human health is protected by operation of these Regulations.

(4) If the Agency ceases to be satisfied of the matters specified in paragraphs (a), (b) and (c) of paragraph (3) in respect of an origin in a country it may publish in the London Gazette notice that, as from a date specified in the notice, that origin shall no longer be an appropriate origin for the purposes of these Regulations and, if such a notice is published, the recognition of appropriate origin shall cease to have effect on that date.

APPROPRIATE DOCUMENTATION

(5) Appropriate documentation for food to which this paragraph applies for the purposes of these Regulations is a statement to the effect that the food has been subjected to treatment by ionising radiation together with -

(a) a copy of all the particulars a copy of which, by virtue of heads (a) to (d) of paragraph 15(1) of Part II of Schedule 1, would be required to accompany any food had it been consigned by the holder of an irradiation licence to any other person after subjection by him to treatment by ionising radiation, and

(b) confirmation from the holder of the irradiation licence in the country in which the food was subjected to treatment by ionising radiation that an irradiation licence was in effect in relation to the food at the time at which that treatment took place."

Amendments to the Food Labelling Regulations (Northern Ireland) 1996

13. The Food Labelling Regulations (Northern Ireland) 1996[8] shall be amended in accordance with regulations 14 to 19.

14. In paragraph (1) of regulation 2 (interpretation) -

(a) after the definition of "Directive 94/54" there shall be inserted the following definition -

" "Directive 1999/2" means European Parliament and Council Directive 1999/2/EC on the approximation of the laws of the member States concerning foods and food ingredients treated with ionising radiation;"

and

(b) in paragraph (c) of the definition of "ionising radiation", for "0.5 Gy" there shall be substituted "0.01 Gy in the case of inspection devices which utilise neutrons and 0.5 Gy otherwise", and for "and 5 MeV otherwise" there shall be substituted ", 14 MeV in the case of neutrons and 5 MeV otherwise".

15. In paragraph (1)(iv) of regulation 3 (exemptions), for "and Directive 94/54" there shall be substituted ", Directive 94/54 and Directive 1999/2".

16. For paragraph (4)(b) of regulation 15 (compound ingredients) there shall be substituted -

" (b) the compound ingredient constitutes less than 25 per cent of the finished product, except that -

(i) subject to regulation 17, any additive which is an ingredient of such a compound ingredient shall be named in the list of ingredients in accordance with paragraph (2); and

(ii) where an ingredient of such a compound ingredient has been irradiated the name of that ingredient and the words required by paragraph 2 of Schedule 2 shall be given, except in the case of food which is prepared for patients requiring sterile diets under medical supervision."

17. The following paragraph shall be inserted between paragraphs (4) and (5) of regulation 26 (small packages and certain indelibly marked bottles) -

" (4A) Any food which -

(a) by virtue of paragraph (1) or (3) alone is exempted from the requirement to be marked or labelled with a list of ingredients;

(b) contains any ingredient which has been irradiated; and

(c) is not prepared for patients requiring sterile diets under medical supervision,

shall be marked or labelled with an indication that it contains that ingredient, and in such a case the reference within that indication to that ingredient shall include or be accompanied by "irradiated" or "treated with ionising radiation".

18. In regulation 35 (general requirement) -

(a) the existing text shall be numbered "(1)";

(b) in the full-out words to paragraph (1), after "may" there shall be inserted "(except as provided in paragraph (2))"; and

(c) there shall be inserted after paragraph (1) the following paragraph -

" (2) In the case of food to which paragraph (1) applies which has been irradiated, other than food which is prepared for patients requiring sterile diets under medical supervision, the alternative provided for in the full-out words to that paragraph shall not apply as regards the particulars specified in regulations 14(2) and 26(4A) and paragraph 2 of Schedule 2, and "irradiated" or "treated with ionising radiation" shall in all cases appear on the commercial documents relating to such food."

19. In regulation 36 (food to which regulation 23 or 27 applies) -

(a) immediately after paragraph (1) there shall be inserted the following paragraph -

" (1A) Paragraphs (2) to (4) shall apply only to food which is prepared for patients requiring sterile diets under medical supervision.";

(b) in paragraph (5), in paragraph (c), there shall be inserted at the beginning " (except as provided in paragraph (6))"; and

(c) there shall be inserted at the end the following paragraphs -

" (6) Notwithstanding the foregoing paragraphs (but subject to paragraph (7)), in the case of the sale of any food to which regulation 23 or 27 applies which has been irradiated -

(a) "irradiated" or "treated with ionising radiation" shall in all cases appear on the commercial documents relating to such food; and

(b) paragraph (c) of paragraph (5) shall not apply as regards the particulars specified in regulations 14(2), 25(1) and 27(3) and (4) and paragraph 2 of Schedule 2.

(7) Paragraph (6) shall not apply in relation to food which is prepared for patients requiring sterile diets under medical supervision."

20. In paragraph (b) of regulation 47 (defence in relation to exports), for "and Directive 94/54" there shall be substituted ", Directive 94/54 and Directive 1999/2".

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on

18th October 2000.

L.S.

Don Hill

Senior officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations give effect to the provisions of -

(a) Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the member States concerning foods and food ingredients treated with ionising radiation (O.J. No. L66, 13.3.99, p. 16); and

(b) Directive 1999/3/EC of the European Parliament and of the Council on the establishment of a Community list of foods and food ingredients treated with ionising radiation (O.J. No. L66, 13.3.99, p. 24).

2. These Regulations give effect to the above provisions by amending the following Regulations -

(a) the Food (Control of Irradiation) Regulations (Northern Ireland) 1992 (S.R. 1992 No 172); and

(b) the Food Labelling Regulations (Northern Ireland) 1996 (S.R. 1996 No. 383), as amended.

3. The substantive amendments to the Food (Control of Irradiation) Regulations (Northern Ireland) 1992 are as follows -

(a) definitions of Directives 1999/2/EC and 1999/3/EC are inserted into regulation 2(1) (*regulation 3(a)*);

(b) the definition of "ionising radiation" in regulation 2(1) is amended (*regulation 3(b)*);

(c) a new regulation, 6A, requiring the labelling of non-consumer foods which are subject to ionising radiation, is inserted (*regulation 4*);

(d) the text of regulation 8 (defence in relation to exports) is revised (*regulation 5*). The defence now only operates in relation to food intended for export to a country which is not a member of the European Community;

(e) the particulars specified in paragraph 1 of Part I of Schedule 1 (particulars to be sent to the licensing authority by a person applying for an irradiation licence) are amended (*regulation 6*);

(f) the matters set out in paragraph 3 of Part I of Schedule 1 (matters the licensing authority has to take into account in deciding whether to issue or to refuse to issue an irradiation licence) are revised (*regulation 7*);

(g) the terms and conditions set out in Part II of Schedule 1 (conditions of irradiation licences) are varied (*regulation 8*);

(h) the licensing authority and the applicant are given the power to agree a variation of the term of an irradiation licence inserted by virtue of paragraph 4 of Part II of Schedule 1 (*regulation 9*);

(i) the power to extend an irradiation licence currently found in Part IV of Schedule 1 is revoked (*regulation 10*);

(j) a revised paragraph 1 of Part VI of Schedule 1 (which specifies the amount of each charge referred to in that Schedule) is substituted for the existing paragraph so numbered, which also specifies the amount of each charge referred to in Schedule 1 (*regulation 11(a)*);

(k) sub-paragraphs (a) and (b) of paragraph 2 of Part VI of Schedule 1 are amended to vary the maximum sums which fall to be paid in any one year in respect of the inspections referred to in regulation 9(3) (*regulation 11(b)*); and

(l) a revised Schedule 2 (relating to the import of food) is substituted for the existing Schedule so numbered (which also deals with the import of food) (*regulation 12*).

5. These Regulations also make some consequential amendments to the Food (Control of Irradiation) Regulations (Northern Ireland) 1992.

6. The amendments to the Food Labelling Regulations (Northern Ireland) 1996 are -

(a) a definition of Directive 1999/2/EC is inserted into regulation 2(1) (*regulation 14(a)*);

(b) the definition of "ionising radiation" in regulation 2(1) is amended (*regulation 14(b)*);

(c) the exemption in regulation 3(1) for food brought into Northern Ireland in certain circumstances from another member State or an EEA state is adjusted so as to require such food to comply (where applicable) with Directive 1999/2/EC (*regulation 15*);

(d) a revised paragraph (b) of regulation 15(4) (providing an exception to the requirement that the names of the ingredients of a compound ingredient used in the preparation of a food have to be given in the list of ingredients of the food) is substituted for the existing paragraph (b) of regulation 15(4) (*regulation 16*);

(e) regulation 26 (small packages and certain indelibly marked bottles) is amended to require certain food which, although exempted from the requirement to be marked or labelled with a list of ingredients, nevertheless contains an ingredient which has been irradiated, to be marked and labelled accordingly (*regulation 17*);

(f) regulation 35 (which imposes a general requirement as to the manner of marking or labelling of certain food) is so amended that the alternative to that requirement contained at the end of that regulation is modified in the case of a specified category of that food which has been irradiated (*regulation 18*);

(g) regulation 36 (which imposes a requirement as to the manner of marking or labelling of certain other food) is so amended that -

(i) the application of paragraphs (2) to (4) of that regulation (which permit the use of alternative labelling in the case of certain food which has been or contains an ingredient which has been irradiated) is restricted to food which is prepared for patients requiring sterile diets under medical supervision, and

(ii) in the case of the sale of food to which regulation 23 or 27 applies which has been irradiated (other than food which is prepared for patients requiring sterile diets under medical supervision) -

(aa) the commercial documents relating to the food must in all cases indicate that it has been irradiated, and

(bb) certain particulars are no longer required to appear on those documents (*regulation 19*); and

(h) the defence in relation to exports (*regulation 47*) is updated to include a reference to Directive 1999/2/EC (*regulation 20*).

Notes:

[1] S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28back

[2] Formerly the Department of Health and Social Services; *see* S.I. 1999/283 Article 3back

[3] S.R. 1992 No. 172 as amended by S.R. 2000 No. 78back

[4] O.J. No. L66, 13.3.1999, p. 16back

[5] O.J. No. L66, 13.3.1999, p. 24back

[6] S.R. 1996 No. 383; relevant amending Regulations are S.R. 1998 No. 253, S.R. 1999 Nos. 143 and 286 and S.R. 2000 No. 189back

[7] Paragraph 4 requires the irradiation licence to specify each description of food to which it appliesback

[8] S.R. 1996 No. 383: relevant amending instrument is S.R. 1998 No. 253back

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