



STATUTORY INSTRUMENTS.

S.I. No. 556 of 2014



EUROPEAN UNION (PROVISION OF FOOD INFORMATION TO
CONSUMERS) REGULATIONS 2014

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ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

1. Citation and commencement.
2. Interpretation.
3. Scope.

PART 2

GENERAL PROVISIONS

4. Basic requirement.
5. Fair information practices.
6. Responsibilities.
7. Mandatory particulars for prepacked food.
8. Additional mandatory particulars for specific types or categories of foods.
9. Availability and placement of mandatory food information.
10. Presentation of mandatory particulars.
11. Distance selling.
12. Language requirements.
13. Voluntary food information.
14. Supplementing and repeating of information in nutrition declaration.
15. Nutrition declaration on non-prepacked food.
16. Delegation of responsibility for State functions under EU Regulation.

PART 3

ENFORCEMENT, OFFENCES AND PENALTIES

17. Enforcement generally.
18. Taking of food samples.
19. Division of food samples.

20. Taking of relevant things.
21. Analysis of food samples and relevant things.
22. Report on official controls.
23. Powers of authorised officers.
24. Seizure, removal, detention and destruction.
25. Compliance notice.
26. Designation of official laboratories and approved examiners.
27. Offences.
28. Bodies corporate.
29. Prosecution of offences.

PART 4

TRANSITIONAL MEASURES AND REVOCATIONS

30. Transitional measures.
31. Revocations.

Schedule

EUROPEAN UNION (PROVISION OF FOOD INFORMATION TO CONSUMERS) REGULATIONS 2014

I, LEO VARADKAR, Minister for Health, 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 Regulation (EU) No. 1169/2011 of the European Parliament and of the Council of 25 October 2011¹ as affected by Corrigendum to Regulation (EU) No. 1169/2011², Commission Delegated Regulation (EU) No. 1155/2013 of 21 August 2013³ and Commission Delegated Regulation (EU) No. 78/2014 of 22 November 2013⁴, hereby make the following regulations:

Part 1

PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Provision of Food Information to Consumers) Regulations 2014.

(2) Subject to paragraphs (3) and (4), these Regulations come into operation on 13 December 2014.

(3) Regulation 7(1)(a)(iii) is deemed to have come into operation on 1 January 2014.

(4) Regulation 7(1)(l) comes into operation on 13 December 2016.

Interpretation

2. (1) In these Regulations—

“Act of 1998” means the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998);

“approved examiner” means—

(a) a Deputy Public Analyst located at a Public Analyst’s Laboratory,

(b) an Executive Analytical Chemist located at a Public Analyst’s Laboratory,

(c) a Public Analyst located at a Public Analyst’s Laboratory,

¹OJ No. L 304, 22.11.2011, p. 18.

²OJ No. L 247, 13.9.2012, p. 17.

³OJ No. L 306, 16.11.2013, p. 7.

⁴OJ No. L 27, 30.1.2014, p. 7.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th December, 2014.

(d) a person, or member of a class of persons, designated by the Minister pursuant to Regulation 26;

“authorised officer” means an authorised officer appointed under section 49 of the Act of 1998;

“Authority” means the Food Safety Authority of Ireland, established under section 9 of the Act of 1998;

“date of minimum durability of the food” means the date until which the food retains its specific properties when properly stored;

“EU Regulation” means Regulation (EU) No. 1169/2011 of the European Parliament and of the Council of 25 October 2011¹ as affected by Corrigendum to Regulation (EU) No. 1169/2011², and as amended by Commission Delegated Regulation (EU) No. 1155/2013 of 21 August 2013³ and Commission Delegated Regulation (EU) No. 78/2014 of 22 November 2013⁴;

“food information” means information concerning a food and made available to the final consumer by means of a label, other accompanying material, or any other means including modern technology tools or verbal communication;

“General Food Law Regulation” means Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002⁵;

“label” means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to the packaging or container of food;

“labelling” means any words, particulars, trade marks, brand name, pictorial matter or symbol relating to a food and placed on any packaging, document, notice, label, ring or collar accompanying or referring to such food;

“legibility” means the physical appearance of information, by means of which the information is visually accessible to the general population and which is determined by various elements, inter alia, font size, letter spacing, spacing between lines, stroke width, type colour, typeface, width-height ratio of the letters, the surface of the material and significant contrast between the print and the background;

“mandatory food information” means the particulars in relation to food that are required to be provided to the final consumer under Articles 9 and 10 of the EU Regulation;

“mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer;

⁵OJ No. L 31, 1.2.2002, p. 1.

“means of distance communication” means any means which, without the simultaneous physical presence of the supplier and the consumer, may be used for the conclusion of a contract between those parties;

“Member State” means a state which is a contracting party to the Agreement on the European Economic Area signed in Oporto on 2 May 1992;

“Minister” means the Minister for Health;

“Official Agency” means an official agency carrying out functions under a service contract and acting on behalf of the Authority pursuant to section 48 of the Act of 1998;

“Official Controls Regulation” means Regulation (EC) No. 882/2004 of the European Parliament and of the Council of 29 April 2004⁶, as amended by Council Regulation (EC) No. 301/2008 of 17 March 2008⁷, Commission Regulation (EC) No. 1029/2008 of 20 October 2008⁸, Regulation (EC) No. 596/2009 of the European Parliament and of the Council of 18 June 2009⁹ and Commission Regulation (EU) No. 208/2011 of 2 March 2011¹⁰;

“Official laboratory” means-

- (a) Public Analyst’s Laboratory, Cork,
- (b) Public Analyst’s Laboratory, Dublin,
- (c) Public Analyst’s Laboratory, Galway,
- (d) a laboratory designated by the Minister pursuant to Regulation 26;

“prepacked food” means any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging; “prepacked food” does not cover foods packed on the sales premises at the consumer’s request or prepacked for direct sale;

“primary ingredient” means an ingredient or ingredients of a food that represent more than 50 per cent of that food or which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required;

“relevant thing” means-

- (a) label, labelling, packaging or container, commercial documents, or

⁶OJ No. L 165, 30.4.2004, p. 1 as affected by Corrigendum (OJ No. L 191, 28.5.2004, p. 1).

⁷OJ No. L 97, 9.4.2008, p. 85.

⁸OJ No. L 278, 21.10.2008, p. 6.

⁹OJ No. L 188, 18.7.2009, p. 14.

¹⁰OJ No. L 58, 3.3.2011, p. 29.

- (b) materials used in the advertising or presentation of food or other accompanying material.

“service contract” means a contract entered into between the Authority and an official agency pursuant to section 48 of the Act of 1998.

(2) A word or expression which is used in these Regulations and which is also used in the EU Regulation or in the General Food Law Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the EU Regulation or in the General Food Law Regulation.

Scope

3. (1) These Regulations apply to food business operators at all stages of the food chain, where their activities concern the provision of food information to consumers.

(2) These Regulations apply to all foods intended for the final consumer, including foods delivered by mass caterers, and foods intended for supply to mass caterers.

(3) These Regulations apply to catering services provided by transport undertakings when the departure takes place in the territory of a Member State.

Part 2

GENERAL PROVISIONS

Basic requirement

4. A food business operator is guilty of an offence if the food business operator supplies food which is not accompanied by food information in accordance with the EU Regulation.

Fair information practices

5. (1) A food business operator is guilty of an offence if the food business operator supplies food information which—

- (a) is misleading in any of the ways referred to in Article 7(1) of the EU Regulation,
- (b) is inaccurate,
- (c) is unclear or not easy to understand for the consumer, or
- (d) subject to derogations provided for by European Union law applicable to natural mineral waters and foods for particular nutritional uses, attributes to the food, or refers to, the property of preventing, treating or curing a human disease.

(2) A food business operator is guilty of an offence if the food business operator advertises food in a manner which—

- (a) is misleading in any of the ways referred to in Article 7(1) of the EU Regulation,
 - (b) is inaccurate,
 - (c) is unclear or not easy to understand for the consumer, or
 - (d) subject to derogations provided for by European Union law applicable to natural mineral waters and foods for particular nutritional uses, attributes to the food, or refers to, the property of preventing, treating or curing a human disease.
- (3) A food business operator is guilty of an offence if the food business operator presents food in a manner which—
- (a) is misleading in any of the ways referred to in Article 7(1) of the EU Regulation,
 - (b) is inaccurate,
 - (c) is unclear or not easy to understand for the consumer, or
 - (d) subject to derogations provided for by European Union law applicable to natural mineral waters and foods for particular nutritional uses, attributes to the food, or refers to, the property of preventing, treating or curing a human disease,

having regard in particular to the shape, appearance or packaging of the food, the packaging materials used, the way in which the food is arranged and the setting in which the food is displayed.

Responsibilities

6. (1) A food business operator is guilty of an offence if food is placed on the market under the name or business name of that food business operator without food information being present and accurate, in accordance with the applicable food information law and requirements of relevant national provisions.

(2) A food business operator is guilty of an offence if that food business operator imports food into the State from a food business operator not established in a Member State and places it on the market without food information being present and accurate, in accordance with the applicable food information law and requirements of relevant national provisions.

(3) A food business operator which does not affect food information is guilty of an offence if that food business operator places on the market food which it knows or presumes, on the basis of the information it has in its possession, to be non-compliant with the applicable food information law and requirements of relevant national provisions.

(4) A food business operator is guilty of an offence if, within a business under its control, that food business operator modifies information accompanying food where such modification would mislead the final consumer or otherwise reduce the level of consumer protection and the possibilities for the final consumer to make informed choices.

(5) Without prejudice to paragraphs (1) to (4), a food business operator is guilty of an offence if, within a business under its control, that food business operator fails to—

- (a) ensure compliance with the requirements of food information law and relevant national provisions which are relevant to its activities, or
- (b) verify that such requirements are met.

(6) A food business operator is guilty of an offence if, within a business under its control, that food business operator fails to transmit information relating to non-prepacked food to the food business operator receiving the food in order to enable, when required, the provision of mandatory food information to the final consumer.

(7) In the following cases, a food business operator is guilty of an offence if, within a business under its control, that food business operator fails to ensure that the mandatory particulars required under Articles 9 and 10 of the EU Regulation appear on the prepackaging or on a label attached thereto, or on the commercial documents referring to the food where it can be guaranteed that such documents either accompany the food to which they refer or were sent before or at the same time as delivery:

- (a) where prepacked food is intended for the final consumer but marketed at a stage prior to sale to the final consumer and where sale to a mass caterer is not involved at that stage;
- (b) where prepacked food is intended for supply to mass caterers for preparation, processing, splitting or cutting up.

(8) Notwithstanding paragraph (7), a food business operator is guilty of an offence if the food business operator fails to ensure that the particulars referred to in points (a), (f), (g) and (h) of Article 9(1) of the EU Regulation appear, on the external packaging in which prepacked food is presented for marketing.

(9) A food business operator that supplies—

- (a) food not intended for the final consumer to another food business operator, or
- (b) food to a mass caterer

is guilty of an offence if the food business operator fails to provide that other food business operator or mass caterer with sufficient information to enable it,

where appropriate, to meet its obligations under Article 8(2) of the EU Regulation.

Mandatory particulars for prepacked food

7. (1) Subject to this Regulation, a food business operator is guilty of an offence if the food business operator places on the market prepacked food without indicating the following particulars, by means of words and numbers:

- (a) the name of the food, in accordance with—
 - (i) Article 17(1) to (4) of the EU Regulation,
 - (ii) Parts A and C of Annex VI to the EU Regulation, and
 - (iii) paragraphs 1 and 2 of Part B of Annex VI to the EU Regulation;
- (b) the list of ingredients in the food, in accordance with Article 18(1) to (4) and Article 20 of the EU Regulation, except in the case of foods covered by Article 19(1) of the EU Regulation;
- (c) any ingredient or processing aid listed in Annex II to the EU Regulation or derived from a substance or product listed in that Annex causing allergies or intolerances used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form, in accordance with Article 21(1) of the EU Regulation;
- (d) the quantity of certain ingredients or categories of ingredients, where required, in accordance with Article 22 of the EU Regulation;
- (e) the net quantity of the food, in accordance with Article 23(1) and (3) of the EU Regulation;
- (f) the date of minimum durability of the food, expressed in accordance with paragraph 1 of Annex X to the EU Regulation, or, where required under Article 24(1) of the EU Regulation, the ‘use by’ date of the food, expressed in accordance with paragraph 2 of Annex X to the EU Regulation;
- (g) any special storage conditions or conditions of use, in accordance with Article 25 of the EU Regulation;
- (h) the name or business name and address of the food business operator under whose name or business name the food is marketed or, if that operator is not established in a Member State, the importer of the food into the State;
- (i) the country of origin or place of provenance of the food, where required by Article 26(2)(a) of the EU Regulation, and the country of origin or place of provenance of the primary ingredient, where required by Article 26(3) of the EU Regulation;

- (j) instructions for use, in accordance with Article 27(1) of the EU Regulation, where it would be difficult to make appropriate use of the food in the absence of such instructions;
- (k) in the case of beverages containing more than 1.2% by volume of alcohol, the actual alcoholic strength by volume, in accordance with Article 28 of the EU Regulation, and
- (l) except in the case of food falling within the scope of the legislation listed in Article 29(1) of the EU Regulation, a nutrition declaration—
 - (i) containing the information required in accordance with Article 30(1) of the EU Regulation,
 - (ii) calculated in accordance with Article 31(1), (3) and (4) of the EU Regulation,
 - (iii) expressed in accordance with Article 32 and Article 33(1) to (4) of the EU Regulation,
 - (iv) presented in accordance with Article 34(1) to (5) of the EU Regulation, and
 - (v) in which any additional forms of expression other than those referred to in Article 32(2) and (4) and Article 33 of the EU Regulation, and any additional forms of presentation other than those referred to in Article 34(2) of the EU Regulation, are in accordance with Article 35(1) of the EU Regulation.

(2) In the case of food in a glass bottle intended for reuse which is indelibly marked and therefore bears no label, ring or collar, the food business operator is not guilty of an offence under paragraph (1) if the particulars listed at paragraph (1)(a), (c), (e), (f) and (l) are indicated.

(3) In the case of food in packaging or a container the largest surface area of which has an area of less than 10 cm², the food business operator is not guilty of an offence under paragraph (1) if the particulars listed at paragraph (1)(a), (c), (e) and (f) are indicated, provided that the particulars referred to in paragraph (1)(b) are provided through other means or made available at the request of the consumer.

(4) In the case of foods listed in Annex V to the EU Regulation, the food business operator is not guilty of an offence under paragraph (1) where the only particular not indicated is that listed at paragraph (1)(l).

(5) In the case of beverages containing more than 1.2% by volume of alcohol, the food business operator is not guilty of an offence under paragraph (1) where the only particulars not indicated are those listed at paragraph (1)(b) and (l).

Additional mandatory particulars for specific types or categories of foods

8. A food business operator is guilty of an offence if the food business operator places on the market food of a type or category listed in Annex III of the EU Regulation without providing the corresponding particulars listed in that Annex.

Availability and placement of mandatory food information

9. (1) A food business operator is guilty of an offence if the food business operator fails to ensure that mandatory food information is available and easily accessible.

(2) A food business operator is guilty of an offence if the food business operator fails to ensure that mandatory food information for prepacked food appears directly on the package or on a label attached thereto.

Presentation of mandatory particulars

10. (1) A food business operator is guilty of an offence if the food business operator fails to ensure that mandatory food information is marked in a conspicuous place in such a way as to be easily visible, clearly legible and, where appropriate, indelible.

(2) A food business operator is guilty of an offence if the food business operator provides mandatory food information which is in any way hidden, obscured, detracted from, or interrupted by, any other written or pictorial matter or any other intervening material.

(3) Save in a case where a specific European Union provision applies to the particular food, a food business operator is guilty of an offence if the food business operator fails to ensure that, in the case of prepacked food, the mandatory particulars listed in Article 9(1) of the EU Regulation are printed on the package or on the label attached thereto in such a way as to ensure clear legibility, in characters using a font size where the x-height, as defined in Annex IV of the EU Regulation, is equal to or greater than 1.2 mm.

(4) A food business operator is guilty of an offence if the food business operator fails to ensure that, in the case of packaging or containers the largest surface area of which has an area of less than 80 cm² the mandatory particulars listed in Article 9(1) of the EU Regulation are printed on the package or on the label in characters using a font size where the x-height, as defined in Annex IV of the EU Regulation, is equal to or greater than 0.9 mm.

(5) Subject to the exceptions provided in Regulation 7(2) and (3), a food business operator is guilty of an offence if the food business operator fails to ensure that the mandatory particulars listed in Article 9(1)(a), (e) and (k) of the EU Regulation appear in the same field of vision.

Distance selling

11. (1) A food business operator is guilty of an offence if the food business operator offers prepacked food for sale by means of distance communication

and fails to make mandatory food information, other than the particulars provided in Article 9(1)(f) of the EU Regulation, available before the purchase is concluded—

- (a) on the material supporting the distance selling, or
- (b) through other appropriate means which are clearly identified by the food business operator and for which the food business operator does not charge consumers supplementary costs.

(2) A food business operator is guilty of an offence if the food business operator offers prepacked food for sale by means of distance communication and fails to make mandatory food information available at the moment of delivery.

(3) Paragraph (1) shall not apply in the case of foods offered for sale by means of automatic vending machines or automated commercial premises.

Language requirements

12. A food business operator is guilty of an offence if the food business operator fails to ensure that food it places on the market is accompanied by mandatory food information in—

- (a) the English language, or
- (b) the Irish language and the English language.

Voluntary food information

13. (1) A food business operator is guilty of an offence where the food business operator provides food information referred to in Articles 9 and 10 of the EU Regulation on a voluntary basis and such information does not comply with—

- (a) the applicable requirements laid down in Sections 2 and 3 of Chapter IV of the EU Regulation, and
- (b) the presentation requirement in Article 37 of the EU Regulation.

(2) A food business operator is guilty of an offence where the food business operator provides food information on a voluntary basis and such information does not comply with—

- (a) the requirements of Article 36(2) of the EU Regulation, and
- (b) the presentation requirements of Article 37 of the EU Regulation.

Supplementing and repeating of information in nutrition declaration

14. (1) A food business operator is guilty of an offence where the food business operator supplements the nutrition declaration referred to in Regulation 7(1)(l) with information other than that listed in Article 30(2) of the EU Regulation.

(2) Where the labelling of prepacked food provides the nutrition declaration referred to in Regulation 7(1)(l), the food business operator is guilty of an offence where the food business operator repeats information other than that listed in Article 30(3) of the EU Regulation.

Nutrition declaration on non-prepacked food

15. Where the labelling of non-prepacked food provides a nutrition declaration, the food business operator is guilty of an offence where that declaration does not contain the information referred to in paragraph (a) or (b) of Article 30(5) of the EU Regulation.

Delegation of responsibility for State functions under EU Regulation

16. The functions of the State under—

(a) the first subparagraph of Article 35(3) of the EU Regulation, and

(b) Article 35(5) of the EU Regulation,

shall be performed by the Authority.

Part 3

ENFORCEMENT, OFFENCES AND PENALTIES

Enforcement generally

17. (1) The enforcement of these Regulations and of the EU Regulation, shall be carried out in accordance with the provisions of these Regulations.

(2) These Regulations shall be deemed to be food legislation for the purposes of the Act of 1998.

(3) These Regulations shall be enforced by the Authority or by an official agency acting pursuant to a service contract with the Authority, or by both, and, without prejudice to paragraph (1), the enforcement provisions contained in the Act of 1998 shall apply for the purposes of ensuring compliance with the requirements of these Regulations.

Taking of food samples

18. (1) An authorised officer may, for the purposes of these Regulations, purchase or take without payment a sample of food.

(2) An authorised officer may, for the purpose of taking a sample of food open any receptacle.

(3) Where an authorised officer purchases or takes without payment a sample of food with the intention of having it analysed, he or she shall after purchasing or taking the sample forthwith notify the food business operator, or the person in apparent charge or control of the food of his or her intention of having the sample analysed.

(4) Where an authorised officer purchases or takes without payment, with the intention of having it analysed, a sample of food which is suspected by him or her of failing to comply with the provisions of these Regulations, he or she may, by notice in writing to the food business operator, or the person in apparent charge or control of such food, prohibit its removal except to any place which may be specified in the notice, during such period as may be specified in the notice, but not exceeding 15 working days from the date of the taking of the sample.

Division of food samples

19. (1) Where a sample of food is taken pursuant to these Regulations, for the purposes of official analysis and where the division of the sample is reasonably practicable, the authorised officer concerned shall divide the sample into three approximately equal parts (enforcement, trade (defence) and referee), 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) Where an authorised officer divides a sample in accordance with paragraph (1), he or she shall, in the presence of the food business operator, or the person in apparent charge or control of such food:

- (a) mark, seal and fasten each part in such a manner as its nature will permit, and in such a way that the integrity of the sample is not compromised;
- (b) forward one part to the approved examiner in an official laboratory for analysis;
- (c) give or send one part to the food business operator; and
- (d) retain the third part.

(3) Where an authorised officer takes a sample of food 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 provisions of paragraph (1) and (2) 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) and (2).

(4) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on, a sample of food taken pursuant to these Regulations shall not be adduced unless before the proceedings were instituted the sample was divided as specified in this Regulation. The part, package or container retained by the authorised officer shall be produced at the hearing.

Taking of relevant things

20. (1) An authorised officer may, for the purposes of these Regulations, inspect, take or make copies, whether in writing, by photography, electronically or otherwise, of a relevant thing.

(2) Where a sample of a relevant thing related to a food sample taken in accordance with Regulation 18, is taken pursuant to these Regulations, for the purposes of official analysis, the authorised officer shall obtain three identical such relevant things, or take three copies or photographs of such relevant thing.

(3) Where an authorised officer takes a relevant thing related to a food sample taken in accordance with Regulation 18, or a copy or photograph thereof, with the intention of having it analysed, he or she shall—

- (a) forthwith notify the food business operator of his or her intention of having the relevant thing, copy or photograph analysed,
- (b) mark, seal and fasten each relevant thing, or copy or photograph of the relevant thing, in such a manner as its nature will permit, and in such a way that the integrity of the sample is not compromised,
- (c) forward one of the relevant things, or one of the copies or photographs of the relevant thing, to the approved examiner in an official laboratory for analysis,
- (d) give or send one of the relevant things, or one of the copies or photographs of the relevant thing, to the food business operator, and
- (e) retain the third relevant thing, or the third copy or photograph of the relevant thing.

(4) Where a sample of a relevant thing is taken pursuant to these Regulations, for the purpose of inspection, the authorised officer shall obtain three identical such relevant things, or take three copies or photographs of such relevant thing.

(5) Where an authorised officer takes a relevant thing, or a copy or photograph thereof, with the intention of having it inspected, he or she shall—

- (a) forthwith notify the food business operator of his or her intention of having the relevant thing, copy or photograph inspected,
- (b) mark, seal and fasten each relevant thing, or copy or photograph of the relevant thing, in such a manner as its nature will permit, and in such a way that the integrity of the sample is not compromised,
- (c) give or send one of the relevant things, or one of the copies or photographs of the relevant thing, to the food business operator,
- (d) retain one of the relevant things, or one of the copies or photographs of the relevant thing, for the purpose of inspection, and

(e) retain the third relevant thing, or the third copy or photograph of the relevant thing.

(6) In proceedings for an offence under these Regulations, the result of any analysis or inspection of, or report on, a sample of a relevant thing taken pursuant to these Regulations shall not be adduced unless—

(a) before the proceedings were instituted the sample was divided as specified in this Regulation, and

(b) the relevant thing or the copy or photograph of the relevant thing retained by the authorised officer is produced at the hearing.

Analysis of food samples and relevant things

21. (1) The approved examiner or a person under his or her direction shall analyse as soon as possible any sample of food, relevant thing or copy or photograph of a relevant thing submitted to him or her in pursuance of these Regulations and the approved examiner shall certify to the person who submitted same to him or her the result of such analysis.

(2) The form of certificate set out in the Schedule to these Regulations or a certificate in like form shall be used for the purpose of paragraph (1).

(3) An official certificate given in accordance with paragraph (1) shall be evidence of the matters contained therein until the contrary is shown.

Report on official controls

22. (1) Where a sample of food or relevant thing or a copy or photograph of a relevant thing is taken by an authorised officer in pursuance of these Regulations for inspection or analysis, the Authority, or an official agency as the case may be, shall draw up a report in accordance with Article 9 of the Official Controls Regulation.

(2) Where the certificate given in accordance with Regulation 21(1) indicates that there has been non-compliance with these Regulations, the Authority, or the official agency, as the case may be, shall provide the food business operator or person in apparent charge or control of such food or relevant thing, with a copy of the report referred to in paragraph (1).

Powers of authorised officers

23. An authorised officer may, for the purposes of these Regulations—

(a) examine any procedure connected with the manufacture of food, and

(b) require a person to state his or her name and address and, if the authorised officer thinks it necessary, to produce corroborative evidence of same.

Seizure, removal, detention and destruction

24. (1) An authorised officer may seize, remove or detain food or a relevant thing which is suspected by him or her of failing to comply with the provisions of these Regulations.

(2) An authorised officer may, with the consent in writing of the food business operator, or the person in apparent charge or control of such food or in accordance with an order of a judge of the District Court under paragraph (5) of this Regulation, destroy or otherwise dispose of food so as to prevent the food being used for human consumption.

(3) An authorised officer may, with the consent in writing of the food business operator, or the person in apparent charge or control of such relevant thing or in accordance with an order of a judge of the District Court under paragraph (5) of this Regulation, destroy or otherwise dispose of the relevant thing so as to prevent consumers from being misled or a risk to human health.

(4) An authorised officer who has seized, removed or detained food or a relevant thing in pursuance of the provisions of this Regulation may, on giving notice in writing to the food business operator, or the person in apparent charge or control of such food or relevant thing, of his or her intention to do so, apply to a judge of the District Court for an order directing that such food or relevant thing be destroyed or otherwise disposed of.

(5) A judge of the District Court, to whom an application is made for an order under paragraph (4), may, if satisfied that the food or relevant thing fails to comply with these Regulations, order that same be destroyed or otherwise disposed of, after such period, not exceeding 14 days, as may be specified in such order, and an authorised officer shall destroy or dispose of the food or relevant thing accordingly.

Compliance notice

25. (1) Where an authorised officer is of the opinion that there is non-compliance with a requirement of these Regulations, the authorised officer may, following consultations with the chief executive or such other officer of the Authority or an official agency designated in that behalf by the Board of the Authority, serve, or arrange to have served, on the food business operator concerned a notice (“compliance notice”) in accordance with paragraph (2).

(2) A compliance notice shall—

- (a) be signed by the authorised officer issuing it, or the officer consulted in accordance with paragraph (1),
- (b) identify the requirement(s) of these Regulations with which there has not been compliance,
- (c) identify the corrective actions to be taken,
- (d) where appropriate, direct the food business operator on whom the compliance notice is served to ensure that the food is not offered for

sale or supply to the final consumer or to a mass caterer until such time as all appropriate measures, including corrective measures, have been taken to bring the food and relevant thing into conformity with these Regulations,

- (e) where appropriate, direct the food business operator on whom the compliance notice is served to recall and withdraw from the market any food which the authorised officer suspects of failing to comply with these Regulations,
- (f) specify a time period, commensurate with the nature of the risk, within which the food business operator must take the corrective actions identified in subparagraph (c), and
- (g) state that if a food business operator to whom the notice is addressed fails to take such measures as are specified in the notice within the time period specified in that notice, that food business operator commits an offence.

(3) A compliance notice shall give the person on whom it is served information on the right of appeal against such notice.

(4) The chief executive of the Authority or another officer of the Authority designated for that purpose may, for stated reasons, revoke or vary a compliance notice issued by an authorised officer appointed by the Authority.

(5) The chief executive of an official agency, or another officer of an official agency designated for that purpose, may, for stated reasons, revoke or vary a compliance notice issued by an authorised officer appointed by the official agency.

(6) A copy of every compliance notice, and every revocation or variation of a compliance notice, shall be provided within three working days to the Authority and to the official agency.

(7) In the event of non-compliance or delay by the person on whom a compliance notice has been served, an authorised officer shall, with the approval of the chief executive of the Authority or official agency, or another officer thereof designated for that purpose, take whatever measures are considered necessary to ensure compliance with the compliance notice, including the seizure and destruction of the products in question or the making of any arrangements for such seizure or destruction or both.

Designation of official laboratories and approved examiners

26. The Minister may, for the purposes of these Regulations designate, by notice in writing published in *Iris Oifigiúil*:

- (a) a laboratory as a laboratory at which samples taken under these Regulations may be analysed, and testing and verification may be carried out, and

- (b) a person as being a person who, or a class of persons the members of which, may, at a designated laboratory, engage in analysis, testing and verification for the purposes of these Regulations.

Offences

27. (1) The offences provided for in these Regulations shall not apply to an authorised officer or an approved examiner, or to a person acting under such an officer's or examiner's express direction, acting in the course of his or her duties pursuant to these Regulations.

(2) A person is guilty of an offence if he or she—

- (a) obstructs or interferes with an authorised officer in the exercise of the officer's powers under these Regulations,
- (b) fails or refuses to state his or her name or address in compliance with a request under these Regulations,
- (c) fails to comply with a request or notice from an authorised officer under these Regulations,
- (d) makes a statement or provides information to an authorised officer which the person knows is false or misleading,
- (e) provides records or documents, or copies thereof, which the food business operator knows to be false or misleading in content, or
- (f) gives, in purported compliance with a request under these Regulations, a name, an address or corroborative evidence which is false or misleading.

(3) A person is guilty of an offence if he or she forges, or utters knowing it to be forged, a certificate of analysis or other document purporting to be issued, granted or given under these Regulations or required for the purposes of these Regulations (hereafter referred to as "a forged document").

(4) A person is guilty of an offence if he or she alters with intent to defraud or deceive, or utters knowing it to be so altered, a certificate of analysis or other document issued, granted or given under these Regulations, or required for the purposes of these Regulations (hereafter referred to as "an altered document").

(5) A person is guilty of an offence if he or she, without lawful authority, has in his or her possession a forged document or an altered document.

(6) A person is guilty of an offence if he or she with the intent to defraud or deceive:

- (a) tampers with any food or relevant thing, or
- (b) tampers or interferes with any sample taken under these Regulations.

(7) A person is guilty of an offence if he or she falsely represents himself or herself to be an authorised officer.

(8) For the purposes of these Regulations, every contravention of a Regulation shall be deemed a separate contravention and every contravention of a paragraph or a subparagraph shall also be deemed to be a separate contravention and shall carry the same penalty as for a single contravention of any Regulation.

Bodies corporate

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

Prosecution of offences

29. (1) A person who is guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a class A fine or at the discretion of the Court to imprisonment for a term not exceeding 6 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding 3 years, or both.

(2) No prosecution on indictment shall be taken on foot of these Regulations in respect of an offence that occurred before the entry into force of these Regulations.

(3) Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Authority or the official agency, as the case may be, the costs and expenses, measured by the court, incurred by the Authority or official agency in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisors engaged by the Authority or official agency.

(4) An order for costs and expenses under paragraph (3) is in addition to, and not instead of, any fine or penalty the court may impose under paragraph (1).

(5) Notwithstanding section 57 of the Act of 1998, a summary offence under these Regulations may be prosecuted by—

- (a) the Authority, or
- (b) an official agency.

Part 4

TRANSITIONAL MEASURES AND REVOCATIONS

Transitional measures

30. (1) Notwithstanding the provisions of Part 2, a food business operator is not guilty of an offence under these Regulations for failure to comply with the EU Regulation in respect of food placed on the market or labelled prior to 13 December 2014.

(2) Notwithstanding the provisions of Part 2, a food business operator is not guilty of an offence under Regulation 7(1)(l) for failure to comply with the requirements of the EU Regulation referred to in that provision in respect of food placed on the market or labelled prior to 13 December 2016.

(3) Notwithstanding the provisions of Part 2, a food business operator is not guilty of an offence under Regulation 7(1)(a)(iii) for failure to comply with the requirements of the EU Regulation referred to in that provision in respect of food placed on the market or labelled prior to 1 January 2014.

(4) Notwithstanding—

(a) the provisions of the European Communities (Nutrition Labelling for Foodstuffs) Regulations 2009 (S.I. No. 461 of 2009),

(b) Article 7 of Regulation (EC) No. 1924/2006 of the European Parliament and of the Council¹¹, and

(c) Article 7(3) of Regulation (EC) No. 1925/2006 of the European Parliament and of the Council of 20 December 2006¹²,

a food business operator is not guilty of an offence of failing to comply with any such provision where the food business operator placed on the market, before 13 December 2014, food labelled in accordance with Articles 30 to 35 of the EU Regulation.

(5) Notwithstanding Commission Regulation (EC) No. 1162/2009 of 30 November 2009¹³, a food business operator is not guilty of an offence of failing to comply with that instrument where the food business operator placed on the market, before 1 January 2014, food labelled in accordance with Part B of Annex VI to the EU Regulation.

(6) Notwithstanding Regulation 31(1), and without prejudice to paragraph (4), the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 483 of 2002) and the European Communities (Nutrition Labelling for Foodstuffs) Regulations 2009 shall continue to apply in respect of food placed on the market or labelled prior to 13 December 2014 until the stocks of such food are exhausted.

¹¹OJ No. L 404, 30.12.2006, p. 9 as affected by Corrigendum (OJ No. L 12, 18.1.2007, p. 3).

¹²OJ No. L 404, 30.12.2006, p. 26.

¹³OJ No. L 314, 1.12.2009, p. 10.

Revocations

31. (1) The following are revoked:

- (a) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002;
- (b) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations 2003 (S.I. No. 257 of 2003);
- (c) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No. 2) Regulations 2003 (S.I. No. 451 of 2003);
- (d) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No. 3) Regulations 2003 (S.I. No. 528 of 2003);
- (e) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations 2005 (S.I. No. 228 of 2005);
- (f) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No. 2) Regulations 2005 (S.I. No. 514 of 2005);
- (g) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No. 3) Regulations 2005 (S.I. No. 647 of 2005);
- (h) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations 2007 (S.I. No. 376 of 2007);
- (i) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) (No. 2) Regulations 2007 (S.I. No. 808 of 2007);
- (j) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations 2008 (S.I. No. 424 of 2008);
- (k) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations 2009 (S.I. No. 61 of 2009);
- (l) the European Communities (Labelling, Presentation and Advertising of Foodstuffs) (Amendment) Regulations 2013 (S.I. No. 381 of 2013); and
- (m) the European Communities (Nutrition Labelling for Foodstuffs) Regulations 2009.

(2) References in any other instrument to the Regulations revoked under paragraph (1) shall be construed as references to these Regulations or the EU Regulation, as appropriate.

Schedule

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

**European Union (Provision of Food Information to Consumers) Regulations
2014**

Certificate of Analysis

To ⁽¹⁾ _____

I, the undersigned ⁽²⁾ _____.

being an approved examiner for the purpose of the above Regulations certify that on

the _____ day of _____ 20 _____

a sample / relevant thing / copy of relevant thing / photograph of relevant thing marked ⁽³⁾ _____

Date _____

Number _____

Weight or Measure ⁽⁴⁾ _____

was submitted to me by you and I certify that the sample / relevant thing / copy / photograph of relevant thing was prepared and analysed/examined by me or under my direction

and as a result I am of the opinion that ⁽⁵⁾

Observations:⁽⁶⁾

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

Certified by me this _____ day of _____ 20 _____

at ⁽⁷⁾ _____

Name in BLOCK LETTERS _____

Status _____

Signature _____

Official Stamp

NOTES

- (1) Insert the name and address of the person submitting the sample for analysis.
- (2) Insert description (e.g. Executive Analytical Chemist located at a Public Analyst's Laboratory).
- (3) Insert particulars of marking (e.g. name, date etc.).
- (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. It may also be left unanswered in the case of analysis or examination of a relevant thing, or a copy or photograph thereof.
- (5) Here the approved examiner should specify the result of the analysis having regard to the provisions of the relevant legislation.
- (6) 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 any allergen 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 food information relating to the sample is missing, incorrect or misleading; whether and in what respect a label or relevant thing relating to the sample is missing, incorrect or misleading and he or she may add any other observations as he or she may consider relevant. In the case of analysis or examination of a relevant thing, or a copy or photograph thereof, the approved examiner may insert, at his or discretion, any observations in relation to the relevant thing that he or she may consider relevant.
- (7) Insert the name and address of the laboratory carrying out the analysis/examination.



GIVEN under my Official Seal,
9 December 2014.

LEO VARADKAR,
Minister for Health.

EXPLANATORY NOTE

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

These Regulations give effect to Regulation (EU) No. 1169/2011 of the European Parliament and of the Council of 25 October 2011 (as affected by Corrigendum to Regulation (EU) No. 1169/2011), Commission Delegated Regulation (EU) No. 1155/2013 of 21 August 2013 and Commission Delegated Regulation (EU) No. 78/2014 of 22 November 2013 on the provision of food information to consumers.

These Regulations revoke and replace the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 to 2013 and the European Communities (Nutrition Labelling for Foodstuffs) Regulations 2009.

These Regulations may be cited as the European Union (Provision of Food Information to Consumers) Regulations 2014.

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