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information for all

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Regulation of Food

There is a wide range of legislation in place governing the production, processing, distribution, selling, and labelling of food. In general, the aim of the legislation is to ensure the production of safe food and to ensure that consumers have information about the contents and source of the food they are buying. The Minister for Health and Children has the main responsibility for legislation on food hygiene and safety. The Minister for Agriculture and Food has responsibility for a number of areas. A number of agencies are involved in the enforcement of the legislation. The main one is the Food Safety Authority of Ireland (FSAI) which co-ordinates the food monitoring and regulatory activities of the other agencies involved.

Here we describe the main rules in relation to the regulation of food and the main agencies responsible for implementing these rules. There is a vast amount of detailed legislation which we do not have space to mention.

The general consumer legislation, for example, on unfair trading practices, unfair terms on consumer contracts, display of prices, applies to food in the same way as to other products. Here we are concerned with the specific laws relating to food. As well as the general laws on food, there are specific laws dealing with specific foods. Some of these are described here – note that they are additional to the general requirements.

The Law and Policy

The general power to make regulations for the control of food is contained in Section 54 of the Health Act 1947. The current law is in the recent amendment to Section 54 of the Health Act 1947 which is in the Irish Medicines Board (Miscellaneous Provisions) Act 2006.

This provides that the Minister for Health and Children may make regulations providing for:

- The prevention of danger to the public health arising from the manufacture, preparation, importation, storage, distribution or exposure for sale of food intended for sale for human consumption



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- The prevention of contamination of food intended for sale for human consumption
- The prohibition and prevention of the sale or offering or keeping for sale of food, materials or articles used or intended to be used in the preparation and manufacture of food, or living animals intended for food which are diseased, contaminated or otherwise unfit for human consumption
- The protection of consumer interests (including regulations requiring people operating in the retail, restaurant or catering sectors to provide information on the country of origin of meat sold or otherwise supplied to consumers where, in the opinion of the Minister, such information is not already adequately provided under national or EU legislation)
- Giving effect to acts of the EU relating to the control of food

The “protection of consumer interests” includes all measures for the prohibition or prevention of the processing, storage, transport, distribution, trading or selling to the prejudice of the consumer of any food which is not of the nature, substance or quality demanded by the consumer.

EU food law

Much of the legislation on food comes from the EU and some of that is mentioned below. It is available on the Europa website: <http://europa.eu>. The main EU law on food safety is Regulation 178/2002 which sets out the general principles and requirements of food law, establishes the European Food Safety Authority and sets out procedures in matters of food safety.

The Implementing Agencies

Food Safety Authority of Ireland (FSAI)

The Food Safety Authority of Ireland is a statutory body. Its principal function is to take all reasonable steps to ensure that food produced, distributed or marketed in Ireland meets the highest standards of food safety and hygiene and complies with legal requirements or recognised codes of good practice.

The FSAI has its own monitoring and enforcement staff but the bulk of this work is carried out by the agencies with which it has agreements. The Authority co-ordinates the activities of all the food safety agencies – it has agreements about the implementation of food safety legislation with a large number of agencies including local authorities, the Health Service

Existing food law principles and procedures must be adapted by 1 January 2007 in order to comply with the general framework established by this Regulation.

This law requires that:

- Food must not be placed on the market if it is unsafe, that is, if it is harmful to health and/or unfit for consumption.
- Feed must not be placed on the market or given to any food-producing animal if it is unsafe.
- At all stages of the food production chain, business operators must ensure that food and feed are safe.
- The traceability of food, feed, food-producing animals and all substances incorporated into foodstuffs must be established at all stages of production, processing and distribution.
- If an operator considers that a food or feed product is harmful to human or animal health, steps must be taken immediately to withdraw the product from the market.

European Food Safety Authority

The main function of the European Food Safety Authority (EFSA) is to provide independent scientific advice. It assesses risks relating to the food chain and informs the general public accordingly.

The Food and Veterinary Office (FVO)

The Food and Veterinary Office, which is an EU agency, is responsible for monitoring compliance with various EU laws including those on food hygiene. It carries out inspections and audits, in member states and in countries exporting to the EU, in relation to foodstuffs of animal and vegetable origin, the use of chemicals (veterinary medicines, growth stimulants, pesticides), animal health and welfare and plant health.

Executive (HSE), the Office of the Director of Consumer Affairs (advertising of food), the Department of Agriculture and Food, the Department of Communications, Marine and Natural Resources, the Marine Institute, the Radiological Protection Institute and the Customs and Excise Service (imports).

Rapid alert system

There is a rapid alert system for various products including all foodstuffs and animal feed. Notices of food alerts are on the FSAI website.

Food Safety Authority of Ireland

Abbey Court, Lower Abbey Street, Dublin 1.

Tel: (01) 817 1300

Advice Line: 1890 336 677. The Advice Line provides information and advice on a range of food safety issues.

www.fsai.ie

The Office of the Director of Consumer Affairs (ODCA)

The Office of the Director of Consumer Affairs is a statutory office. It is responsible for a wide range of consumer protection activities. You may complain to the Office about false or misleading claims about goods, services and prices.

Office of the Director of Consumer Affairs

4 Harcourt Road, Dublin 2.

Consumer enquiries: Tel: (01) 402 5555

Lo-call: 1890 220 229

www.odca.ie

Health Service Executive (HSE)

Environmental Health Officers (EHOs) are employed by the HSE. They have a range of duties including food hygiene. If you want to complain about food you have bought or a premises in which food is sold or stored (including shops and restaurants) you should contact an Environmental Health Officer at your local HSE office.

Local authorities

The Food Safety Authority of Ireland has contracts with a number of county and city councils to implement some food safety laws.

Department of Agriculture and Food

The Department of Agriculture and Food is responsible for the following areas:

- Meat hygiene (this includes all the major abattoirs and meat manufacturing and processing plants)
- Milk and milk products
- Egg and egg products
- Pesticide control service
- Border inspection posts
- National Residue Monitoring Programme
- Zoonoses (diseases which humans can get from animals)
- Food labelling (for meat)

The Department is also responsible for related areas such as animal health and welfare and some areas of plant health.

Department of Agriculture and Food

Kildare Street, Dublin 2.

Tel: (01) 607 2000

Lo-call: 1890 200 510

www.agriculture.gov.ie

Department of Communications, Marine and Natural Resources

The Department of Communications, Marine and Natural Resources and the Marine Institute are responsible for seafood.

Department of Communications, Marine and Natural Resources

Leeson Lane, Dublin 2.

Tel: (01) 678 2000

Lo-call: 1890 449 900

www.dcmnr.ie

Marine Institute

Rinville, Oranmore, Co. Galway

Tel: (091) 387200

www.marine.ie

Food Safety Promotion Board

The Food Safety Promotion Board, known as *safefood*, is a cross-border body established under the Good Friday Agreement. Its functions include:

- Promotion of food safety
- Research into food safety
- Communication of food alerts
- Surveillance of food-borne disease
- Promotion of scientific co-operation and laboratory linkages
- Development of cost-effective facilities for specialised laboratory testing.

The Food Safety Promotion Board,

Block B, Abbey Court,

Lower Abbey Street, Dublin 1

Helpline: 1850 404 567

www.safefoodonline.com

Methods of enforcement

The FSAI and the implementing agencies have various powers to enter premises for the purposes of inspection and monitoring. They may prosecute for breaches of the law. They also have specific powers to order improvements and, if necessary, closure of premises.

Improvement Notices and Orders

An Improvement Notice may be issued if an implementing officer is of the opinion that a premises or practice is of such a nature that if it persists, it will or is likely to pose a risk to public health.

If the food business operator does not comply with this notice, the District Court may issue an Improvement Order. The FSAI website contains information about the orders (not the notices) and they remain listed on the site for three months after they have been lifted.

Closure Order

A Closure Order may be issued if there is or there is likely to be a grave and immediate danger to public

health at or in the food premises. Closure Orders can refer to the immediate closure of all or part of the food premises or all or some of its activities. They are also listed on the FSAI website.

Prohibition Order

A Prohibition Order may be issued if the activities (handling, processing, disposal, manufacturing, storage, distribution or selling food) involve or are likely to involve a serious risk to public health from a particular product, class, batch or item of food. The effect is to prohibit the sale of the product, either temporarily or permanently. They are listed on the FSAI website and remain there for one month after they are lifted.

Food Hygiene

The current rules on food hygiene are contained in the EU Food Hygiene package which came into force on 1 January 2006. This involves legislation which replaced and updated the previously existing 17 Directives. The aim of the package is to provide for safe food from “farm to fork”.

The package covers:

- The hygiene of foodstuffs (usually known as Hygiene 1 – Regulation 852/2004): this applies to all food business operators supplying to the consumer
- Specific hygiene rules for food of animal origin (usually known as Hygiene 2 – Regulation 853/2004): this applies to all food business operators involved in the supply of food of animal origin to outlets other than the final consumer
- Specific rules for controls on products of animal origin intended for human consumption – Regulation 854/2004
- Animal health – Directive 2002/99

General rules are laid down for all foods, while specific measures are included for meat and meat products, bivalve molluscs (for example, mussels or clams), fishery products, milk and dairy products, eggs and egg products, frogs’ legs, snails, animal fats, gelatine and collagen.

The basic rule is that responsibility for safe food rests with the food operators who are involved in the production, manufacture, processing, distribution or retail of the food. All food operators have to be registered and some businesses, such as slaughterhouses and cutting plants, need approval before they can operate. The operators of these businesses are responsible for ensuring the welfare of live animals, humane killing procedures, hygienic

working conditions, the prevention of cross-contamination and a safe end product. Food operators are obliged to apply compulsory self-checking programmes and follow the Hazard Analysis and Critical Control Point (HACCP) principles in all sectors of the food industry (except farms). Primary producers (farmers) must protect, as far as possible, primary products against contamination.

Primary production for private use and the direct sale of small quantities of primary products are not covered by the hygiene rules. For example, apples or eggs sold directly at the farm gate, farmers’ markets or in local retail shops are exempted.

Regulation 183/2005 on Feed Hygiene sets out the rules on the production, transport, storage and handling of animal feed. As with food operators, feed businesses have primary responsibility for ensuring the safety of products put on the market. They have to apply the HACCP self-checking principles, keep records of production and marketing, be registered with the national authorities, and undergo mandatory training. They are obliged to pay for the costs, such as withdrawal from the market and destruction of feed, if something goes wrong.

The FSAI has overall responsibility for the implementation of the food hygiene rules. Most of the inspections of food retail premises are carried out by Environmental Health Officers.

Food Labelling

The main legislation covering the labelling, presentation and advertising of food is EU Directive 2000/13/EC as amended by Directive 2003/89/EC. This is implemented in Ireland by the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (SI 483/2002) as amended. In Ireland, the Minister for Health and Children has overall responsibility in this area while the Minister for Agriculture and Food has responsibility for labelling of products such as beef and poultry. All of the food labelling legislation is enforced through the Food Safety Authority of Ireland (FSAI).

This legislation deals with the rules on the labelling and advertising of pre-packaged food. It requires that all pre-packaged food products which are being delivered to the final consumer must have information about ingredients and quantities, products which may cause allergies, the minimum durability date and any special conditions for storage. Drinks with more than 1.2% alcohol must declare their actual alcoholic strength. The labelling, presentation and advertising of food must not mislead the consumer or make false claims about the product. The information must be given clearly, accurately and in a language understood by the consumer. In general, it is not necessary to give information about the country of origin but this must be done if the failure to do so would be likely to mislead the consumer to a material degree and, of course, false information about country of origin is prohibited.

The minimum durability of food is the shelf life of the product – this is the date until which the product retains its specific properties when properly stored. It is usually indicated as a “best before” or “sell by” date. It is not illegal to sell food which is past its sell by date provided it is in fully acceptable condition.

Food which is sold loose is not subject to these labelling requirements.

Labelling of beef

The labelling rules for beef require that everyone selling beef provides information which can enable the beef to be traced back to the animals from which it came. The information must include details of the slaughterhouse, de-boning hall and the country in which the animal was born and reared. If beef is imported from outside the EU and these details are not available, then the beef must be labelled as “Origin: non-EC” along with an indication of the country in which slaughter took place.

Beef labelling in restaurants and catering

Since 3 July 2006, beef which is provided by restaurants and catering services must show the country of origin. The Country of Origin of Beef Regulations 2006 (SI 307/2006) require that a food business operator providing prepared beef to consumers must indicate the country of origin in clear legible type on the advertisement, menu or other presentation used when advertising, presenting, selling or supplying beef. This is enforceable by Environmental Health Officers. The enabling legislation allows this to be extended to other meats but it is unlikely that this will be done in the near future. The EU is considering such an extension. It recently issued a consultation paper on “Labelling: Competitiveness, Consumer Information and Better Regulation for the EU”.

www.fsai.ie/consultations/proposal_20060410.pdf

Labelling of other meats

EU regulations require that unprocessed poultry meat be labelled at retail level. The label must show information about the class, price per kilogram, condition, registered number of slaughterhouse or cutting plant and, where imported from outside the EU, an indication of the country of origin. There are no specific EU regulations governing the labelling of pigmeat or sheepmeat. They are subject to the general food labelling regulations – these do not require that information be given on the country of origin.

The Irish legislation does give the power to extend the country of origin labelling requirements to other meats but it is not proposed to actually do this at present.

Other labelling requirements

There is also a range of other EU legislation on labelling.

There are specific rules for the content of products (for example, pies, sausages) which may be described as “meat”.

Health and nutrition claims

Nutrition claims are those used on labels or in advertising/marketing campaigns, which make an assertion about a particular nutritional property of a food, for example, “high in vitamin C”, “low fat”, “no added sugar”, “high fibre”. Health claims maintain that there is a relationship between a specific food and improved health, or that a food can reduce the risk of a particular disease for example, “calcium may be good for your bones”.

The current rules on nutrition claims are in Directive 90/496/EEC. There is a proposed new Regulation on health and nutrition claims. The proposed Regulation aims to ensure that consumers will be able to rely on the truth and accuracy of information on food labels. It is expected that the Regulation will come into force within the next year. Existing nutrition claims will be able to remain on the market for two years, and existing health claims for three years.

The proposed Regulation applies to food or drink products for human consumption. Products containing alcohol will not be allowed make any health or nutrition claims.

http://ec.europa.eu/comm/food/food/labellingnutrition/claims/index_en.htm

Rules on agricultural quality products

There is an EU system for the registration and protection of protected geographical indications (PGIs) for agricultural products – Regulation (EEC) No 2081/92. Regulation (EC) No 509/2006 aims to clarify and streamline rules for the registration of protected geographical indications (PGIs) and protected designations of origin (PDOs), as well as traditional specialities guaranteed (TSGs). Geographical indications and designations of origin are names identifying a product as originating in a given territory, and testifying to a link between a given quality, reputation or characteristic of the product and its geographical origin.

Organic Food

Organic farming is a system of farming which aims to produce quality food in a manner beneficial to the environment and to wildlife. It mainly involves not using synthetic chemicals, fertilisers, pesticides and herbicides or other additives. There are two relevant EU regulations – Regulation 1804/1999 and Regulation 2092/91.

They apply to:

- Unprocessed agricultural crop products
- Livestock and unprocessed livestock products

- Processed agricultural crop and livestock products intended for human consumption

In order to be able to use the description “organic”, all organic producers and processors must register with the Department of Agriculture and Food. The Department has approved three organic bodies to inspect and certify that the appropriate standards have been met. Products may be described as “organic” only if they have the relevant certification.

Organic and free range are not the same. More information on organic food and producers is at: www.agriculture.gov.ie/organics

The European Commission has published a proposal for a new regulation on organic production. This aims to improve clarity for both consumers and farmers and to take account of local production conditions. It is expected to apply from 2009.

Traceability

Traceability means that food businesses must be able to show the source of the various ingredients used in the production of food.

The main EU legislation provides that all food operators must have a traceability system in place. The traceability requirement applies to all food, animal feed, food-producing animals and all types of food chain operators from the farming sector to processing, transport, storage, distribution and retail to the consumer. The food business must record what ingredients/food products it receives and from whom. It must also record where the product goes (unless it is sold to the final consumer). The Commission and the member states have agreed guidelines to facilitate the implementation of this. The guidance document lays down detailed implementing rules for operators. http://ec.europa.eu/food/food/foodlaw/guidance/index_en.htm

There are particular rules for animal traceability.

Animal identification and tracing

All cattle in Ireland must be tagged at birth and when they are moved to a new location they must be accompanied by a cattle identity card or passport. There is a central database with details of all animals. This database includes the Cattle Movement Monitoring System (CMMS).

There are also identification and tracing systems for sheepmeat and pigmeat.

National Beef Assurance Scheme

The scheme is governed by the National Beef Assurance Scheme Act 2002.

Its aim is to provide additional guarantees about the safety of Irish cattle and beef by the:

- Development of common standards of production and processing
- Enforcement of these standards through a process of registration, inspection and approval, and
- Enhancement of the animal identification and tracing system

The Scheme applies to everyone involved in the primary production and processing of cattle and beef – farmers, marts or assembly centres, dealers, live exporters, slaughterhouses, meat processors and bovine animal feed manufacturers or traders.

Food Additives

Foods and drinks which contain food additives must list the additives on the product label. On the food product label, the food additive must be listed by its category and then by either the E number or the name.

Directive 2003/114/EC amending Directive 95/2/EC deals with food additives other than colours and sweeteners. Directive 2003/115/EC amending Directive 94/35/EC deals with sweeteners. Proposals to amend these Directives have recently been agreed. The proposed changes include stricter requirements for nitrites and nitrates in meat. The proposal also allows the use of seven new food additives and extends the permitted uses of certain other additives.

http://ec.europa.eu/food/food/chemicalsafety/additives/index_en.htm

Fortified foods

A proposed new Regulation on fortified foods has been agreed. This lays down common EU rules on the addition of vitamins, minerals and other substances to foods. A list of vitamins and minerals that can be added to food is included in the proposed Regulation, as are criteria for setting minimum and maximum levels for such nutrients in food. It is expected that the new rules will come into effect within the next year. For up to three years afterwards, products not in compliance with the Regulation will still be allowed to be marketed, provided that they were labelled or placed on the market before it came into force.

http://ec.europa.eu/comm/food/food/labellingnutrition/vitamins/index_en.htm

Food Supplements

Food supplements are usually in the form of medicines and are designed to supplement the normal diet. They are regulated as food if the amount of vitamins or minerals in the supplement is within the Recommended Dietary Allowance (RDA) listed in the European Communities (Nutrition Labelling for Foodstuffs) Regulations 2005 (SI 65/2005). If the vitamin and mineral content of the food supplements is greater than 100% RDA then they are classified as “Medicines” and are regulated by the Irish Medicines Board.

The Food Supplements Directive 2002/46/EC is implemented in Ireland by the Food Supplements Regulations (SI 539/2003). The Directive and these Regulations apply from 1 August 2005. The Directive lists vitamins and minerals and their chemical forms that can be used in supplements. However, ingredients not listed may stay on the market if the product containing that ingredient was on sale before 12 July 2002 and other conditions are met. The FSAI may allow derogations from the rules until 31 December 2009.

The labelling, presentation and advertising of food supplements must not attribute medicinal properties to them and must include a number of warnings about their use.

Bottled Water

There are EU rules about how bottled water may be described. There are three possible descriptions: natural mineral water, spring water and all other drinking water. The definition of each type is set out in the European Communities (Natural Mineral Waters, Spring Waters and Other Waters in Bottles and Containers) Regulations 2005 (SI 79/2005). Spring waters and other waters must also comply with the drinking water regulations – SI 429/2000. The National Standards Authority of Ireland (NSAI) is responsible for assessing whether or not water can be classified as natural mineral water. A list of natural mineral waters recognised as meeting EU standards is at:

http://europa.eu.int/comm/food/food/labellingnutrition/water/mw_eulist_en.pdf

The NSAI has produced a standard for packaged water but it is not mandatory.

Genetically Modified Organisms (GMOs)

There is a range of EU legislation dealing with genetically modified organisms (GMOs). EU legislation on GMOs has been in place since the early 1990s.

The main legislation now in place is as follows:

- Directive 2001/18/EC on the deliberate release into the environment of GMOs: this applies to the experimental release of GMOs into the environment and the placing on the market of GMOs.
- The placing on the market of GMO food and feed or food and feed products containing or consisting of GMOs is regulated by Regulation (EC) No 1829/2003 on genetically modified food and feed.
- Regulation (EC) No 1946/2003 on transboundary movements of genetically modified organisms governs unintentional transboundary movements of GMOs as well as exports of GMOs to third countries.
- Directive 90/219/EEC, as amended by Directive 98/81/EC, on the contained use of genetically modified microorganisms (GMMs): this Directive regulates research and industrial work activities involving GMMs.
- Labelling and traceability requirements are laid down in Regulation (EC) No 1829/2003 and Regulation (EC) No 1830/2003.
- There is also a range of legislation which provides for the implementation of these rules.

The GMO legislation provides that there must be an assessment of the risks to human health and the environment before any GMO or product consisting of or containing GMOs can be released into the environment or placed on the market. Products derived from GMOs (for example, tomato ketchup from a GMO tomato) are not covered by these rules. They are covered by other legislation such as the Regulation on Novel Foods and Novel Food Ingredients - Regulation (EC) No 258/97.

The other main features of the regulation of GMOs are:

- There is a system of monitoring of GMOs after they have been put on the market
- Public information must be provided

- Member states must ensure labelling and traceability at all stages of the placing on the market

If a company wants to market GMOs, it must apply to the national authority in the first member state where the product is to be marketed (the FSAI in Ireland). It must include an environmental risk assessment with the application. If the national authority favours the application, it must tell the Commission which then tells all the other member states. If there are no objections, the national authority gives consent and the product can be marketed in all the member states. If there are objections, the Scientific Committees are asked for their opinions. If these are favourable, the Commission proposes a Decision to the Regulatory Committee which is composed of representatives of the member states for its opinion. If the Regulatory Committee gives a favourable opinion, the Commission adopts the Decision.

If not, the draft Decision is submitted to the Council of Ministers for adoption by qualified majority or rejection. If the Council does not act within three months, the Commission can adopt the decision.

Public information about the process in each case is available at: <http://gmoinfo.jrc.it>

Labelling and traceability of GM food

A food that has an ingredient with a GM content greater than 0.9% must be labelled to indicate that it contains a GM ingredient. Food labelled as "Organic" must not contain any level of GM ingredients.

Business operators must transmit and retain information about products that contain or are produced from GMOs at each stage of the placing on the market. Operators must have systems and procedures in place to identify to whom and from whom products are made available. They must retain the information for five years.

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Tel: 01-6059000 Fax: 01-6059099

E-mail: comhairle@comhairle.ie

Website: www.comhairle.ie