STATUTORY RULES OF NORTHERN IRELAND

2007 No. 110

FOOD

The Quick-Frozen Foodstuffs (No.2) Regulations (Northern Ireland) 2007

Made - - - - *22nd February 2007*

Coming into operation *1st March 2007*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972(**2**).

The Department of Health, Social Services and Public Safety has been designated(**3**) for the purposes of that section in relation to measures relating to food (including drink) including the primary production of food.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**4**) there has been open and transparent public consultation during the preparation of the following Regulations.

Citation and Commencement.

1. These Regulations may be cited as the Quick-frozen Foodstuffs (No.2) Regulations (Northern Ireland) 2007; and come into operation on 1st March 2007.

Interpretation

2.—(1) In these Regulations-

"authorised officer" in relation to an enforcement authority, means any person (whether or not an officer of the authority) who is authorised by them in writing, either generally or specially, to act in matters arising under these Regulations;

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)
(**2**) 1972 c.68
(**3**) S.I. 2003/2901
(**4**) OJ No. L31, 1.2.2002, p. 1. as last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p3) amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the Permanent Scientific Panels of the European Food Safety Authority (OJ No. L100, 8.4.2006, p3). By virtue of Regulation 5 of the Food Safety (Northern Ireland) Order 1991 (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004 No.482), with effect from 7th December 2004 the consultation requirement contained in Article 47(3) of the 1991 Order is disapplied in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002

"catering establishment" has the meaning which it bears in the Food Labelling Regulations (Northern Ireland) 1996(**5**);

"Directive 89/108" means Council Directive 89/108/EEC(**6**) on the approximation of the laws of Member States relating to quick-frozen foodstuffs for human consumption;

"Directive 92/2" means Commission Directive 92/2/EEC(**7**) laying down the sampling procedure and the Community method of analysis for the official control of the temperatures of quick-frozen foods intended for human consumption;

"enforcement authority" means the authority which, by virtue of regulation 9(5), is responsible for executing and enforcing these Regulations;

"food" has the meaning that it bears in Regulation 178/2002;

"local distribution" in relation to any product, means that part of the distribution chain in which the product is delivered to the point of placing on the market for retail purposes (such placing on the market to include placing on the market to a catering establishment);

"the Order" means the Food Safety (Northern Ireland) Order 1991;

"placing on the market" has the meaning it bears in Regulation 178/2002;

"prepackaging" shall be construed in accordance with the definition of "prepacked" in the Food Labelling Regulations (Northern Ireland) 1996 but with "placed on the market" being substituted for "offered for sale";

"quick-frozen foodstuff" means a product—

(a) comprising food which has undergone a freezing process known as "quick-freezing" whereby the zone of maximum crystallisation is crossed as rapidly as possible, depending on the type of product, and

(b) which is labelled for the purpose of placing on the market to indicate that it has undergone that process;

but does not include ice-cream or any other edible ice;

"Regulation 178/2002" means Regulation (EC) No. 178/2002 of the European Parliament and the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;

"Regulation 37/2005" means Commission Regulation (EC) No. 37/2005(**8**) on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption;

"retail display cabinet" means any cabinet from which a quick-frozen foodstuff is placed on the market for retail purposes or in the course of a Cash-and-Carry business;

"specified Community provision" means any provision of Regulation 37/2005 that is specified in column 1 of Schedule 1 and whose subject-matter is described in column 2 of that Schedule; and

"ultimate consumer" has the meaning that it bears in the Food Labelling Regulations (Northern Ireland) 1996.

(**5**) S.R. 1996 No.383
(**6**) OJ No. L40, 11.2.89, p.34, as last amended as at the making of this instrument by Council Directive 2006/107/EC adapting Directive 89/108/EEC relating to quick-frozen foodstuffs for human consumption and Directive 2003/13/EC of the European Parliament and of the Council relating to the labelling, presentation and advertising of foodstuffs by reason of the accession of Bulgaria and Romania. (OJ No. L363, 20.12.06, p.411)
(**7**) OJ No. L34, 11.2.92, p.30
(**8**) OJ No. L10, 13.1.05, p.18

(2) Unless the context otherwise requires, any expression used both in these Regulations and in Directive 89/108, Directive 92/2 or Regulation 37/2005 has the meaning that it bears in Directive 89/108, Directive 92/2 or Regulation 37/2005 as the case may be.

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly

Placing on the market of quick-frozen foodstuffs

3. No person shall place a quick-frozen foodstuff on the market for human consumption unless the conditions set out in paragraph 1 of Schedule 2 are satisfied in relation to it.

Packaging of quick-frozen foodstuffs intended for the ultimate consumer

4. No person shall place any quick-frozen foodstuff intended for the ultimate consumer on the market unless—

(a) it has been packed by its manufacturer or packer in such prepackaging as is suitable to protect it from microbial and other forms of external contamination and against dehydration; and

(b) the quick-frozen foodstuff has remained in such prepackaging up to the time of placing on the market.

Marking or Labelling of quick-frozen foodstuffs

5.—(1) The description "quick-frozen" or any other description listed in Article 8.1(a) of Directive 89/108 shall only be used in the labelling for the purpose of placing on the market of—

(a) a quick-frozen foodstuff; or

(b) a food which by virtue of that labelling becomes a quick-frozen foodstuff.

(2) A quick-frozen foodstuff intended for supply, without further processing, to the ultimate consumer or to a catering establishment shall, in addition to the description "quick-frozen" (and, as the intending supplier may see fit, any other description listed in Article 8.1(a) of Directive 89/108) added to its sales name, be marked or labelled on its packaging, container or wrapping, or on a label attached thereto, with-

(a) an indication of the date of minimum durability;

(b) an indication of the maximum period during which it is advisable to store it;

(c) an indication of—

(i) the temperature at which; and/or

(ii) the equipment in which,

it is advisable to store it;

(d) a reference allowing identification of the batch to which it belongs; and

(e) a clear message of the type "do not refreeze after defrosting".

(3) Any other quick-frozen foodstuff shall, in addition to the description "quick-frozen" (and, as the supplier may see fit, any other description listed in Article 8.1(a) of Directive 89/108) added to its sales name, be marked or labelled on its packaging, container or wrapping, or on a label attached thereto, with-

(a) a reference allowing identification of the batch to which it belongs; and

(**9**) 1954 c. 33 (N.I.)

(b) the name or business name and address of the manufacturer or packer, or of a person established within the European Community who places that foodstuff on the market.

(4) No person shall place on the market any food intended for the ultimate consumer or any catering establishment where its labelling or marking contravenes paragraph (1) or (2) and no person shall place on the market any food intended for any other person where its labelling or marking contravenes paragraph (1) or (3).

Equipment

6. Each food operator handling a quick-frozen foodstuff intended for placing on the market for human consumption shall ensure during each stage during which it is within his care and control that the equipment used in respect of that foodstuff is such as to ensure that no act or omission on his part would cause the placing on the market of the foodstuff for human consumption to contravene these Regulations.

Sampling and method of measuring temperatures

7. Where, further to an inspection, an authorised officer has reasonable grounds to believe that the temperatures that are being or have been maintained in respect of any quick-frozen foodstuff are not the temperatures prescribed for such foodstuff in paragraph 1(e) and (f) of Schedule 2, he shall further inspect such quick-frozen foodstuff and such temperatures in accordance with the provisions of Directive 92/2.

Records

8. Each food operator handling any quick-frozen foodstuff shall at the request of an authorised officer of an enforcement authority make records required to be kept under Article 2 of Regulation 37/2005 available to that or another authorised officer of that enforcement authority.

Offences penalties and enforcement

9.—(1) If any person contravenes regulation 3, 4, 5(4), 6, or 8 he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Subject to paragraphs (3) and (4), if any person contravenes a specified Community provision he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person shall be considered not to have contravened the first paragraph of Article 2.2 of Regulation 37/2005 if the requirements of Schedule 3 are complied with.

(4) A person shall be considered not to have contravened Article 2 of Regulation 37/2005 if—

(a) the offence which would otherwise have been committed was in respect of a cold store facility with a capacity of less than $10m^3$ used for storing stock in retail outlets; and

(b) the air temperature in the cold store is measured by an easily visible thermometer.

(5) Each district council shall execute and enforce these Regulations within its district.

Application of various provisions of the Food Safety (Northern Ireland) Order 1991

10. The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or a Part of it shall be construed as a reference to these Regulations—

(a) Article 2(6) (which relates to territorial waters);