STATUTORY RULES OF NORTHERN IRELAND

2006 No. 3

FOOD

The Food Hygiene Regulations (Northern Ireland) 2006

Made - - - -	*10th January 2006*
Coming into operation	*11th January 2006*

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**) as last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council amending Regulation (EC) No. 178/2002 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(**5**) there has been open and transparent public consultation during the preparation of the following Regulations.

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Food Hygiene Regulations (Northern Ireland) 2006 and shall come into operation on 11th January 2006.

Interpretation

2.—(1) In these Regulations—

(**1**) Formerly the Department of Health and Social Services; see S.I.1999/283 (N.I. 1), Article 3
(**2**) 1972 c. 68
(**3**) S.I.2003/2901
(**4**) O.J. No. L31, 1.2.2002, p. 1
(**5**) O.J. No. L245, 29.9.2003, p. 4

"the Agency" means the Food Standards Agency;

"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 the Hygiene Regulations;

"the Community Regulations" means Regulation 852/2004, Regulation 853/2004, Regulation 854/2004, Regulation 2073/2005 and Regulation 2075/2005;

"Directive 2004/41", "Regulation 178/2002", "Regulation 1642/2003", "Regulation 852/2004", "Regulation 853/2004", "Regulation 854/2004", "Regulation 882/2004", "Regulation 1688/2005", "Regulation 2073/2005", "Regulation 2074/2005", "Regulation 2075/2005" and "Regulation 2076/2005" have the meanings respectively given to them in Schedule 1;

"the Department" means the Department of Health, Social Services and Public Safety;

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

"the Hygiene Regulations" means these Regulations and the Community Regulations;

"the Order" means the Food Safety (Northern Ireland) Order 1991(**6**);

"premises" includes any establishment, any place, vehicle, stall or moveable structure and any ship or aircraft; and

"specified Community provision" means any provision of the Community Regulations that is specified in Column 1 of Schedule 2 and whose subject-matter is described in Column 2 of that Schedule.

(2) Subject to paragraph (3), any expression other than one defined in paragraph (1) that is used both in these Regulations and in the Order has the meaning it bears in the Order.

(3) Unless the context otherwise requires, any expression used both in these Regulations and in Regulation 178/2002 or the Community Regulations has the meaning it bears in Regulation 178/2002 or the Community Regulations, as the case may be.

(4) Where, apart from this paragraph, any period of less than seven days which is specified in these Regulations would include any day which is—

(a) a Saturday, a Sunday, Christmas Day or Good Friday; or

(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**7**),

that shall be excluded from the period.

(5) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Presumptions that food is intended for human consumption

3.—(1) The following paragraphs shall apply for the purposes of these Regulations.

(2) Any food commonly used for human consumption shall, if placed on the market or offered, exposed or kept for placing on the market, be presumed, until the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placing on the market for human consumption.

(3) The following, namely—

(**6**) S.I. 1991/762 (N.I.7) as amended by S.I.1996 /1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28, paragraph 2 of Article 2 (regarding the definition of "food") was substituted by S.R. 2004 No. 482

(**7**) 1971 c. 80

(**8**) 1954 c. 33 (N.I.)

(a) any food commonly used for human consumption which is found on premises used for the preparation, storage, or placing on the market of that food; and

(b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or placing on the market of that food,

shall be presumed, until the contrary is proved, to be intended for placing on the market, or for manufacturing food for placing on the market, for human consumption.

(4) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

Competent authority

4. The competent authority for the purposes of the Community Regulations shall be the Agency except where it has delegated competences as provided for in those Regulations.

Enforcement

5.—(1) In respect of any food business operator to whose operations Regulation 852/2004 applies but Regulation 853/2004 does not apply—

(a) the Agency or the district council in whose district the food business operator carries out his operation shall execute and enforce the Hygiene Regulations in so far as the operator concerned is carrying out primary production and those associated operations listed in paragraph 1 of Part AI of Annex I to Regulation 852/2004 other than the associated operations described in sub-paragraphs (a) and (c) of that paragraph to the extent that they concern wild game; and

(b) the district council in whose district the food business operator carries out his operations shall execute and enforce the Hygiene Regulations in so far as the operator concerned is carrying out operations which are not executed and enforced by the Agency or the district council as provided for in sub-paragraph (a).

(2) In respect of any food business operator to whose operations both Regulation 852/2004 and Regulation 853/2004 apply—

(a) the Agency shall execute and enforce the Hygiene Regulations in so far as the operator concerned is carrying out operations in relation to—

(i) a slaughterhouse,

(ii) a game-handling establishment,

(iii) a cutting plant, and

(iv) the activities in respect of eggs as set out in Chapter I of Section X of Annex III to Regulation 853/2004;

(b) the Agency or the district council in whose district the food business operator carries out his operations shall execute and enforce the Hygiene Regulations in so far as the operator concerned is carrying out operations in relation to any establishment that is not specified in sub-paragraph (a).

(3) In respect of—

(a) collection centres and tanneries supplying raw material for the production of gelatine intended for human consumption pursuant to paragraph 5 of Chapter I of Section XIV of Annex III to Regulation 853/2004; and

(b) collection centres and tanneries supplying raw material for the production of collagen intended for human consumption pursuant to paragraph 5 of Chapter I of Section XV of Annex III to Regulation 853/2004,

the Agency shall execute and enforce the Hygiene Regulations.

(4) Each district council shall execute and enforce these Regulations in its district in relation to the matters regulated by Schedules 3 to 5.

(5) The Agency shall execute and enforce these Regulations in relation to the matters regulated by Schedule 6.

(6) In this regulation—

"cutting plant" means an establishment which is used for boning and/or cutting up fresh meat for placing on the market and which—

(a) is approved or conditionally approved under Article 31(2) of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4(3) of Regulation 853/2004) was, on 31st December 2005, operating as licensed cutting premises under the Fresh Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1997(**9**) or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1995(**10**);

"game-handling establishment" means any establishment in which game and game meat obtained after hunting are prepared for placing on the market and which—

(a) is approved or conditionally approved under Article 31(2) of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4(3) of Regulation 853/2004) was, on 31st December 2005, operating as a licensed wild game processing facility under the Wild Game (Hygiene and Inspection) Regulations (Northern Ireland) 1997(**11**); and

"slaughterhouse" means an establishment used for slaughtering and dressing animals, the meat of which is intended for human consumption and which—

(a) is approved or conditionally approved under Article 31(2) of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4(3) of Regulation 853/2004) was, on 31st December 2005, operating as a licensed slaughterhouse under the Fresh Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1997 or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1995.

PART 2

MAIN PROVISIONS

Hygiene improvement notices

6.—(1) If an authorised officer has reasonable grounds for believing that a food business operator is failing to comply with the Hygiene Regulations, he may by a notice served on that person (a "hygiene improvement notice")—

(a) state the officer's grounds for believing that the food business operator is failing to comply with the Hygiene Regulations;

(**9**) S.R. 1997 No. 493, revoked by S.R. 2005 No. 356
(**10**) S.R. 1995 No. 396, revoked by these Regulations
(**11**) S.R. 1997 No. 496, revoked by S.R. 2005 No. 356

(b) specify the matters which constitute the food business operator's failure to comply;

(c) specify the measures which, in the officer's opinion, the food business operator must take in order to secure compliance; and

(d) require the food business operator to take those measures, or measures which are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.

(2) Any person who fails to comply with a hygiene improvement notice shall be guilty of an offence.

Hygiene prohibition orders

7.—(1) If—

(a) a food business operator is convicted of an offence under these Regulations; and

(b) the court by or before which he is so convicted is satisfied that the health risk condition is fulfilled with respect to the food business concerned,

the court shall by an order impose the appropriate prohibition.

(2) The health risk condition is fulfilled with respect to any food business if any of the following involves risk of injury to health (including any impairment, whether permanent or temporary), namely—

(a) the use for the purposes of the business of any process or treatment;

(b) the construction of any premises used for the purposes of the business, or the use for those purposes of any equipment; and

(c) the state or condition of any premises or equipment used for the purposes of the business.

(3) The appropriate prohibition is—

(a) in a case falling within paragraph (2)(a), a prohibition on the use of the process or treatment for the purposes of the business;

(b) in a case falling within paragraph (2)(b), a prohibition on the use of the premises or equipment for the purposes of the business or any other food business of the same class or description; and

(c) in a case falling within paragraph (2)(c), a prohibition on the use of the premises or equipment for the purposes of any food business.

(4) If—

(a) a food business operator is convicted of an offence under these Regulations; and

(b) the court by or before which he is so convicted thinks it proper to do so in all the circumstances of the case,

the court may, by an order, impose a prohibition on the food business operator participating in the management of any food business, or any food business of a class or description specified in the order.

(5) As soon as practicable after the making of an order under paragraph (1) or (4) (a "hygiene prohibition order"), the enforcement authority shall—

(a) serve a copy of the order on the relevant food business operator; and

(b) in the case of an order made under paragraph (1), affix a copy of the order in a conspicuous position on such premises used for the purposes of the food business as they consider appropriate,

and any person who knowingly contravenes such an order shall be guilty of an offence.