STATUTORY RULES OF NORTHERN IRELAND

1997 No. 499

FOOD

Imported Food Regulations (Northern Ireland) 1997

Made - - - - 14th November 1997

Coming into operation 1st January 1998

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1), 16(1), 17(1)(*c*), 25(2)(*e*) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**1**) and of all other powers enabling it in that behalf and after consultation in accordance with Article 47(3) of the said Order with such organisations as appear to it to be representative of interests likely to be substantially affected by these Regulations, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Imported Food Regulations (Northern Ireland) 1997 and shall come into operation on 1st January 1998.

Interpretation

2.—(1) In these Regulations—

"British Islands" means the United Kingdom, the Channel Islands and the Isle of Man;

"examination", with regard to the examination of food by an authorised officer, may include a physical, chemical and microbiological examination of the food;

"exempt product of animal origin" means any of the products mentioned in Schedule 1;

"fishery products" has the same meaning as in the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993(**2**);

"food authority" has the same meaning as in the Imported Food Regulations 1997(**3**);

"free circulation" has the same meaning as in Article 9.2 of the Treaty establishing the European Community;

"the General Food Hygiene Regulations" means the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995(**4**);

(**1**) S.I.1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12). *See* Article 2(2) for the definitions of "the Department concerned" and "regulations"
(**2**) S.R. 1993 No. 51; the relevant amending Regulations are S.R. 1995 No. 113
(**3**) S.I. 1997/2537
(**4**) S.R. 1995 No. 360

"meat preparation", "meat product" "mechanically recovered meat" and "minced meat" have the same meaning as in the Minced Meat and Meat Preparations (Hygiene) Regulations (Northern Ireland) 1997(**5**);

"milk" means milk of a cow, sheep, goat or buffalo;

"officer of Customs and Excise" means—

(a) a person commissioned by the Commissioners of Customs and Excise; or

(b) any other person acting under the authority of the Commissioners of Customs and Excise who is authorised by them to perform the duties to be performed by an officer of Customs and Excise set out in these Regulations;

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

"third country" means any country or territory which is not part of the customs territory of the European Community.

Scope of the Regulations

3.—(1) These Regulations do not apply in relation to the importation of any food which is an exempt product of animal origin.

(2) For the purposes of these Regulations, food is from a third country if it originates(**6**) in that country and—

(a) unless sub-paragraph (*b*) applies, when it arrives in Northern Ireland it is not in free circulation in member States;

(b) it arrives in Northern Ireland from another part of the British Islands, having been—

(i) under customs charge in that part of the British Islands, and

(ii) sent to a place of destination in Northern Ireland for examination under these Regulations,

and when it first arrived in the British Islands it was not in free circulation in member States.

(3) For the purposes of these Regulations, a person is a person importing food from a third country if, whether as owner, consignor, consignee, agent or broker—

(a) he is in possession of food being imported from a third country; or

(b) he is in any way entitled to the custody or control of food being imported from a third country.

Prohibition on importing certain food from third countries

4. No person shall import into Northern Ireland from a third country any food intended for sale for human consumption which—

(a) fails to comply with food safety requirements, or

(b) is unsound or unwholesome.

Enforcement

5.—(1) Subject to paragraphs (2), (3) and (5), each district council shall enforce and execute these Regulations within its district.

(**5**) S.R. 1997 No. 495

(**6**) *See* Council Regulation (EEC) No. 2193/92 establishing the Community Customs Code (O.J. No. L.302, 19.10.92, p. 1), Title II, Chapter 2 (Origin of Goods)

(2) Where—

(a) food from a third country is entered into the British Islands at a part of Northern Ireland which is in the district of a particular district council ("the first district") and it has a final place of destination in another district in Northern Ireland ("the second district");

(b) customs examination of that food has been completed or deferred until it reaches its final place of destination;

(c) an authorised officer of the first district considers it reasonable that examination of the food should be deferred until it arrives at the second district; and

(d) a person importing the food gives that authorised officer an undertaking in writing that the container containing the food has been sealed and will not be opened until it reaches the second district and is available there for examination under these Regulations,

the second district shall become responsible for enforcing and executing these Regulations with respect to that food when it arrives at the second district.

(3) Where—

(a) food from a third country is entered into the British Islands at a part of Northern Ireland which is in the district of a particular district council ("the district") and it has a final place of destination in Great Britain;

(b) customs examination of that food has been completed or has been deferred until it reaches its final place of destination;

(c) an authorised officer of the district considers it reasonable that examination of the food should not take place under these Regulations;

(d) a person importing the food gives that authorised officer an undertaking in writing that the container containing the food has been sealed and will not be opened until it reaches its specified place of destination in Great Britain and is available there for examination under the Imported Food Regulations 1997,

the authorised officer of the district shall authorise the transfer of the food to its specified place of destination in Great Britain for examination under the Imported Food Regulations 1997.

(4) Where an authorised officer authorises the transfer of any food to another district in Northern Ireland or, as the case may be, to Great Britain for examination at the place of destination for that food he shall—

(a) notify by the most expeditious means available the district council or, in Great Britain the food authority, for the area in which that place is located—

(i) that the food (so described as to enable it to be identified) has not been examined under these Regulations, and

(ii) if customs examination of the food has been deferred, of that fact; and

(b) send that council or authority a copy of the undertaking in writing, referred to in paragraphs (2)(*d*) and 3(*d*), which he has been given by a person importing the food.

(5) Where food has been sent to a place of destination in Northern Ireland for examination under these Regulations from another part of the British Islands, the district council for the district in which that place of destination is located shall become responsible for enforcing and executing these Regulations with respect to that food once it arrives in Northern Ireland.

Examination of food by a district council

6.—(1) Where an authorised officer is of the opinion that he should examine for the purposes of these Regulations a batch, lot or consignment of food which is in or due to arrive in the district of

his district council, any person importing the food shall provide all such facilities as the authorised officer may reasonably require for the examination of the food.

(2) An authorised officer who considers that a sample of any food which he proposes to examine or is examining for the purposes of these Regulations should be procured may, by a notice in writing given to—

(a) any person importing the food; or

(b) any other person in possession of the food who is entitled to be in possession of it (other than an officer of Customs and Excise),

require that, once he has procured the sample, the food shall not be removed from the place specified in the notice for a specified period not exceeding six days exclusive of Saturdays, Sundays and public holidays, unless the authorised officer's examination of the food (a process which may include submitting a sample of the food to be analysed by a public analyst or examined by a food examiner) has been completed.

(3) After a notice has been given to a person under paragraph (2) forbidding the removal of specified food, an authorised officer of the district council responsible for the notice shall, without undue delay and in any event within the period specified in the notice, complete the examination of the food in respect of which the notice was given.

(4) Where an authorised officer has given a person a notice under paragraph (2) forbidding the removal of specified food, that food shall not, prior to the completion of the examination of it by an authorised officer, be removed by any person contrary to the terms of the notice except with the express written permission of—

(a) an authorised officer of the district council which is responsible for the notice; or

(b) if the food is under customs charge, an officer of Customs and Excise.

(5) An officer of Customs and Excise shall, before giving any person written permission to remove any food which is the subject of a notice under paragraph (2), inform an authorised officer of the district council responsible for the notice of his intention to do so.

(6) Any person who is aggrieved by a decision to serve a notice under paragraph (2) may appeal against that notice to a court of summary jurisdiction which may order that the notice be withdrawn or that such shorter period be fixed for examination of the food as appears to be reasonable in the circumstances.

Re-export, alternative use or destruction of certain food

7.—(1) If, on an inspection or examination of food for the purposes of these Regulations, it appears to an authorised officer that a batch, lot or consignment of food fails to comply with food safety requirements, or is unsound or unwholesome, he may, after appropriate consultation with a person importing the food, serve on that person a notice—

(a) stating that the food may be used for purposes other than human consumption; or

(b) ordering the re-dispatch of the food outside the European Community.

(2) Any notice served under paragraph (1) shall—

(a) state the grounds the authorised officer has for believing that the food fails to comply with food safety requirements or, as the case may be, is unsound or unwholesome; and

(b) inform the person on whom the notice is served of the right of appeal under paragraph (3).

(3) Any person who is aggrieved by a decision to serve a notice under paragraph (1) may within 6 days exclusive of Saturdays, Sundays and public holidays appeal against that decision to a court of summary jurisdiction which may cancel or affirm that notice.