

1995 No. 113

FOOD

FOOD SAFETY

**The Food Safety (Fishery Products) (Import Conditions and
Miscellaneous Amendments) Regulations
(Northern Ireland) 1995**

Made 22nd March 1995

Coming into operation 1st May 1995

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Articles 15(1) and (3), 16(1), 25(3), 26(3), 47(2) and 48(2) of, and paragraphs 2, 5(1) and (2), 6(1) and 7(1) of Schedule 1 to the Food Safety (Northern Ireland) Order 1991(a) and being a designated Department (b) for the purposes of section 2(2) of the European Communities Act 1972(c) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2), and in each case in exercise of all other powers respectively 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 Food Safety (Fishery Products) (Import Conditions and Miscellaneous Amendments) Regulations (Northern Ireland) 1995 and shall come into operation on 1st May 1995.

Interpretation

2.—(1) In these Regulations —

“approved import conditions” means the conditions for the importation of fishery products which are laid down in any Commission Decision listed in Schedule 1;

“aquaculture products” has the same meaning as in the principal Regulations;

“bivalve molluscs” has the same meaning as in the principal Regulations;

(a) 1991 No 762 (N.I.7) See Article 2(2) for the definitions of “regulations” and “the Department concerned”

(b) S.I. 1972/1811

(c) 1972 c. 68; the definition of the Treaties referred to in section 2(2) was extended by section 1 of the European Economic Area Act 1993 (c. 51)

- “consignment” except in the expression “private consignment” has the same meaning as in the principal Regulations;
- “the Council and Commission Decisions” means the Council and Commission Decisions listed in Schedule 2;
- “the Council Directive” means Council Directive 91/493/EEC(a) of 22 July 1991 laying down the health conditions for the production and placing on the market of fishery products, as adapted for the purposes of the EEA Agreement(b) ;
- “the Derogations Regulations” means the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992(c);
- “the Docks and Carriers Regulations” means the Food Hygiene (Docks, Carriers etc) Regulations (Northern Ireland) 1970(d);
- “EEA Agreement” means the Agreement on the European Economic Area Signed at Oporto on 2nd May 1992(e) as adjusted by the Protocol signed at Brussels on 17th March 1993(f);
- “EEA State” means a State which is a Contracting Party to the EEA Agreement, but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein(g);
- “factory vessel” has the same meaning as in the principal Regulations;
- “fishery products” has the same meaning as in the principal Regulations;
- “the Fishing Vessels Directive” means Council Directive 92/48/EEC(h) of 16th June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with article 3(1)(a)(i) of the Council Directive;
- “import” means import into Northern Ireland, but only if the product in question is not imported from another part of the United Kingdom, the Channel Islands or the Isle of Man;
- “the Import and Export Regulations” means the Products of Animal Origin (Import and Export) Regulations (Northern Ireland) 1993(i);
- “the Live Bivalve Molluscs Directive” means Council Directive 91/492/EEC(j) of 15th July 1991 laying down the health conditions for the production and placing on the market of live bivalve molluscs as adapted for the purposes of the EEA Agreement(k);
- “other shellfish” has the same meaning as in the principal Regulations;

(a) OJ No. L 268, 24.9.91, p. 15

(b) See paragraph 24 of the basic texts in Annex I to the EEA Agreement

(c) S.R. 1992 No.296

(d) SR&O (N.I.) 1970 No.144, the relevant amending Regulations are S.R. 1991 No.203 and S.R. 1993 No.51

(e) OJ No. L 1, 3.1.94, p. 3

(f) OJ No. L 1, 3.1.94, p. 572

(g) See Article 1(2) of the Protocol Adjusting the Agreement on the European Economic Area

(h) OJ No. L 187, 7.7.92, p. 41

(i) S.R. 1993 No. 304

(j) OJ No. L 268, 24.9.91, p. 1

(k) See paragraph 25 of the basic texts in Annex 1 to the EEA Agreement

“the principal Regulations” means the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993(a);

“private consignment” means a quantity of fishery products which are—

(a) imported as trade samples; or

(b) not being imported by way of trade, and which—

(i) form part of a traveller’s personal luggage, or

(ii) have been sent to an individual in Northern Ireland;

“processed” has the same meaning as in the principal Regulations;

“the Safeguards against Cholera Regulations” means the Imported Food and Feedingstuffs (Safeguards against Cholera) Regulations (Northern Ireland) 1992(b);

“third country” means any country or territory which is not part of the European Economic Area including, until the EEA Agreement comes into force in relation to Liechtenstein, the State of Liechtenstein.

(2) In these Regulations, a reference to a numbered Chapter is to the Chapter in the Annex to the Council Directive bearing that number.

(3) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

General restriction on importing fishery products

3.—(1) Subject to paragraphs (2) and (3), no person shall import any fishery products which are for human consumption, unless—

(a) except where paragraph (b) or (c) applies, they are products in respect of which all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive (allowing for any derogations which have been granted from the conditions set out in those Directives) and the Council and Commission Decisions are satisfied;

(b) if they originate in a third country (including products taken from the sea and then landed in Northern Ireland by the vessel of a third country)(d), and if paragraph (c) does not apply, they are products in respect of which the requirements specified in Schedule 3 are satisfied;

(c) if they are products in respect of which two or more countries have been concerned with their production—

(i) where they have undergone any process or operation in an EEA State or on board a vessel of an EEA State, all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive (allowing for any

(a) S.R. 1993 No. 51

(b) S.R. 1992 No. 434

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

(d) See Council Regulation (EEC) No 802/68 on the Common Definition of the Concept of the Origin of Goods, and protocol 4 to the EEA Agreement as amended by the Decision of the EEA Joint Committee No. 6/94 amending protocol 4 to the EEA Agreement on rules of origin (OJ No.L95, 14.4.94, p. 22)

derogations which have been granted from the conditions set out in those Directives) and the Council and Commission Decisions which relate to that process or operation are satisfied, and

- (ii) where they have undergone any process or operation in a third country or on board a vessel of a third country, the requirements specified in Schedule 3 which relate to that process or operation are satisfied; and

(d) any additional conditions imposed under regulation 4 are satisfied, in relation to those fishery products which he imports.

(2) Paragraph (1) shall not apply to a person importing a private consignment—

(a) from a country or territory within the European Community unless that consignment is a consignment of trade samples which weighs more than 10 kilograms; or

(b) from any other country or territory if that consignment weighs 1 kilogram or less.

(3) Paragraphs 1 to 6 of Schedule 3 shall not apply to aquaculture products.

Additional conditions relating to certain third country imports

4.—(1) Subject to paragraphs (3) and (4), no person shall import any fishery products which are for human consumption—

(a) from a third country;

(b) from another country or territory within the European Community if those fishery products do not originate from within the European Economic Area, unless those products were in free circulation in that country or territory within the European Community;

(c) from an EEA State which is not also a member State, unless those fishery products originate from within the European Economic Area, unless the conditions in paragraph (2) are satisfied in relation to those fishery products which he imports.

(2) The conditions referred to in paragraph (1) are that—

(a) except in the circumstances set out in sub-paragraph (b), the fishery products comprise or are part of a consignment which is accompanied by a duly completed health certificate which—

(i) comprises a single sheet,

(ii) is drawn up in English and, where appropriate, in an official language of the country or territory for which those fishery products are destined,

(iii) contains the information mentioned in the specimen health certificate set out in the Annex to Commission Decision 93/185/EEC of 15th March 1993(a) laying down certain

transitional measures concerning the certification of fishery products from third countries in order to facilitate the switchover to the arrangements laid down in the Council Directive, and

- (iv) contains the health attestation mentioned in that specimen health certificate, duly signed and dated by an official inspector duly appointed by the competent authority of the state of origin of those fishery products;

(b) a person importing fishery products in circumstances where—

- (i) those fishery products originate in a third country in respect of which the European Commission has adopted approved import conditions, and
- (ii) those approved import conditions relate to those fishery products, shall import those fishery products in accordance with those approved import conditions.

(3) Fishery products which—

- (a) originate in a third country;
- (b) were caught in their natural environment; and
- (c) have not or had not been on land prior to their importation into the European Community,

need not be accompanied by any health certificate which would otherwise be required under paragraph (2).

(4) Paragraph (1) shall not apply to a person importing a private consignment, if that consignment weighs 1 kilogram or less.

Amendment of the Food Hygiene (General) Regulations (Northern Ireland) 1964

5. For regulation 3A of the Food Hygiene (General) Regulations (Northern Ireland) 1964(a) (exception for premises where fishery products are handled) there shall be substituted—

“Fishery products exceptions

3A.—(1) Regulations 5, 6, 8, 9 and 11 to 22 shall not apply to or to a person at an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993 which has been approved under regulation 8 of those Regulations.

(2) Regulations 5, 6, 8, 9 and 11 to 22 shall not apply to or to a person at a market registered under regulation 12 of the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993.”

(3) In sub-paragraph (bb) of regulation 23(2) of the Food Hygiene (General) Regulations (Northern Ireland) 1964, after “shellfish products” there shall be inserted “to which the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993 apply”.

(a) S.R. 1964 No. 129; the relevant amending Regulations are S.R.1993 No. 51