1995 No. 112

FOOD

The Food Safety (Live Bivalve Molluscs and Other Shellfish) (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(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 the exercise of the powers conferred on it by the said section 2(2), and of all other powers enabling it in that behalf and after consultation (so far as is required by 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 (Live Bivalve Molluscs and Other Shellfish) (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 live bivalve molluscs and other shellfish which are laid down in a Commission Decision mentioned in Schedule 1;

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

"bivalve molluscs" has the same meaning as in the principal Regulations;

(**a**) S.I. 1991/762 (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)
(**d**) S.R. 1993 No. 51

"the Council Directive" means Council Directive 91/492/EEC of 15th July 1991, laying down the health conditions for the production and the placing on the market of live bivalve molluscs(**a**), as adapted for the purposes of the EEA Agreement(**b**);

"consignment", except in the expression "private consignment" has the same meaning as in the principal Regulations;

"the Derogations Regulations" means the Food Safety (Live Bivalve Molluscs) (Derogations) Regulations (Northern Ireland) 1992(**c**);

"designated bivalve production area" has the same meaning as in the principal Regulations;

"dispatch centre" has the same meaning as in the principal Regulations;

"EEA Agreement" means the Agreement on the European Economic Area signed in Oporto on 2nd May 1992(**d**), as adjusted by the Protocol signed in Brussels on 17th March 1993(**e**);

"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(**f**);

"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(**g**);

"other shellfish" has the same meaning as in the principal Regulations;

"the principal Regulations" means the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations (Northern Ireland) 1993(**h**);

"private consignment" means a quantity of live bivalve molluscs or other shellfish 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;

"production area" has the same meaning as in the principal Regulations;

"purification centre" has the same meaning as in the principal Regulations;

(**a**) OJ No. L 268, 24.9.91, p.1
(**b**) *See* paragraph 25 of the basic texts in Annex 1 to the EEA Agreement
(**c**) S.R.1992 No. 295
(**d**) OJ No. L 1, 3.1.94, p. 3
(**e**) OJ No. L 1, 3.1.94, p. 572
(**f**) *See* article 1(2) of the Protocol Adjusting the Agreement on the European Economic Area
(**g**) S.R. 1993 No. 304
(**h**) 1993 No. 52

"relaying" has the same meaning as in the principal Regulations;

"relaying area" has the same meaning as in the principal Regulations;

"the Reference Laboratories Decision" means Council Decision 93/383/EEC on reference laboratories for the monitoring of marine biotoxins(**a**);

"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(**b**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

General restriction on importing live bivalve molluscs or other shellfish

3.—(1) Subject to paragraph (2), no person shall import any live bivalve molluscs or other shellfish which are for human consumption, unless (without prejudice to any restrictions imposed under the Fish Health Regulations (Northern Ireland) 1993(**c**) or the Risk of Infection (Oysters) Order (Northern Ireland) 1993(**d**))—

(*a*) they are products in respect of which—

(i) unless head (ii) applies, all applicable requirements of the Council Directive (allowing for any derogations which have been granted from the conditions set out in the Council Directive) and the Reference Laboratories Decision are satisfied, or

(ii) if they originate in a third country(**e**), the requirements specified in Schedule 2 are satisfied; and

(*b*) any additional conditions imposed under regulation 4 are satisfied.

(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.

Additional conditions in relation to certain third country imports

4.—(1) Subject to paragraph (3), no person shall import any live bivalve molluscs or other shellfish which are for human consumption—

(*a*) from a third country;

(**a**) OJ No. L 166, 8.7.93, p. 31
(**b**) 1954 c. 33 (N.I.)
(**c**) S.R. 1993 No. 3062
(**d**) S.R & O (N.I.) 1973 No. 392
(**e**) *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)

(*b*) from a country or territory within the European Community if those live bivalve molluscs or other shellfish 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 live bivalve molluscs or other shellfish originate from within the European Economic Area,

unless the conditions in paragraph (2) are satisfied in relation to those live bivalve molluscs or other shellfish 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 live bivalve molluscs or other shellfish comprise or are part of a consignment which is accompanied by a duly completed certificate which—

(i) comprises a single sheet,

(ii) is drawn up in English and, where appropriate, in an official language of a country or territory for which those live bivalve molluscs or other shellfish are destined,

(iii) contains the information mentioned in the specimen health certificate set out in Schedule 3, and

(iv) contains the health attestation mentioned in that certificate, duly signed and dated by an official inspector duly appointed by the competent authority of the state of origin of those bivalve molluscs or other shellfish;

(*b*) a person importing live bivalve molluscs or other shellfish in circumstances where—

(i) those live bivalve molluscs or other shellfish 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 live bivalve molluscs or other shellfish;

shall import those live bivalve molluscs or other shellfish in accordance with those approved import conditions.

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

Amendment of the principal Regulations

5. The amendments to the principal Regulations set out in Schedule 4 shall have effect.

Enforcement and penalties

6. For the purposes of the Import and Export Regulations—

(*a*) the requirements set out in regulations 3 and 4 shall be treated as animal and public health requirements; and

(*b*) those requirements shall be enforced as animal and public health requirements—

(i) by a district council or the Department of Agriculture for Northern Ireland, whichever has the responsibility under the Import and Export Regulations for enforcing animal and public health requirements in the particular circumstances of the case,

(ii) in accordance with the procedures set out in the Import and Export Regulations, and

(iii) subject to the penalties and other sanctions set out in the Import and Export Regulations.

Transitional provision

7. Regulation 4(2)(*a*) shall not apply in relation to any live bivalve molluscs or other shellfish which left their country of origin before 1st August 1995.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 22nd March 1995.

(L.S.) *D. A. Baker*

Assistant Secretary