1993 No. 329

FOOD

The Egg Products Regulations (Northern Ireland) 1993

Made	*27th July 1993*
Coming into operation . .	*13th September 1993*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1) and (3), 16(1), 25, 26(3) and 47(2) of, and paragraphs 1 and 4(*b*) of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(**a**) 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 Egg Products Regulations (Northern Ireland) 1993 and shall come into operation on 13th September 1993.

Interpretation and application of the Order

2.—(1) In these Regulations—

"approval" means, in relation to an establishment, an approval granted by a district council under regulation 5(2);

"approved", in relation to an establishment, means an establishment approved by the district council for the district in which it is situated;

"batch" means a quantity of egg products which have been prepared under the same conditions and in particular treated in a single continuous operation;

"cracked eggs" means eggs with a damaged but unbroken shell, with intact membranes;

"egg" means an egg laid by a hen, duck, goose, turkey, guinea fowl or quail;

"egg products" means products obtained from eggs, their various components or mixtures thereof, after removal of the shell and outer membranes, intended for human consumption, and includes such products when partially supplemented by other foodstuffs and additives and such products when liquid, concentrated, crystallized, frozen, quick-frozen, coagulated or dried, but does not include finished foodstuffs;

(a) S.I. 1991/762 (N.I. 7). *See* Article 2(2) for the definitions of "regulations" and "the Department concerned"

"establishment" means any establishment at which egg products are treated, handled or obtained for the purpose of sale for human consumption;

"handling" includes manufacturing, preparing, processing, packaging, wrapping or rewrapping;

"incubated eggs" means eggs from the time of insertion in the incubator, as defined in Council Regulation 1907/90/EEC(**a**) as amended(**b**) on certain marketing standards for eggs;

"occupier" means in relation to any person carrying on a business as a manufacturer of egg products, that person or his duly authorised representative;

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

"sell" includes offer or expose for sale or have in possession for sale or supply in the course of a business;

"supply" means supply otherwise than by sale;

"whole egg" means a mixture of yolk and albumen.

(2) The following provisions of the Order shall apply for the purposes of these Regulations as they apply for the purposes of Article 7, 13 or 14 of the Order and any reference in them to the Order shall be construed as a reference to these Regulations—

(i) Article 2(4) (extended meaning of "sale" etc.);

(ii) Article 4 (presumption that food intended for human consumption);

(iii) Article 19 (offences due to fault of another person);

(iv) Article 20 (defence of due diligence);

(v) Article 21 (defence of publication in the course of business);

(vi) Article 30(8) (which relates to documentary evidence);

(vii) Article 34 (obstruction etc. of officers).

(3) Article 7(2) (which makes presumptions in the case of batches of food) of the Order shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.

(4) Article 8 (inspection and seizure of suspected food) of the Order shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.

(5) Article 35 (which relates to time limits for the commencement of prosecutions) of the Order shall apply in relation to offences under these Regulations as it applies to offences punishable under Article 36(2) of the Order.

(**a**) O.J. No. L173, 6.7.90, p. 5

(**b**) Commission Regulation 1274/91/EEC (O.J. No. L121, 16.5.91, p. 11), Commission Regulation 3540/91/EEC (O.J. No. L335, 6.12.91, p. 12) and Commission Regulation 2221/92/EEC (O.J. No. L218, 1.8.92, p. 81)

Preparation requirements for egg products

3.—(1) Subject to paragraph (4) no person shall sell for human consumption, or use in the preparation of food intended for sale for human consumption, any egg products which are a mixture of egg products obtained from more than one species.

(2) Subject to paragraphs (3) and (4), no person shall sell for human consumption, or use in the preparation of food intended for sale for human consumption, any egg products unless those egg products comply with the requirements specified in Schedule 1 as read with Schedules 2, 3, 4, 5 and 6.

(3) Notwithstanding paragraph (2), any egg products which have been prepared in another Member State shall not have to comply with the requirements in Part II of Schedule 2.

(4) Notwithstanding paragraphs (1) and (2) egg products—

(*a*) obtained from eggs of ducks, geese, turkeys, guinea fowl, quail or graded A under Council Regulation 1907/90/EEC as amended, or

(*b*) obtained from eggs containing no crack visible to the naked eye without candling and made into egg products at the farm where those eggs were produced,

may be used in the preparation of food intended for sale for human consumption if—

(i) they are so used at the establishment where they were obtained, whether or not the food is consumed at that establishment, and

(ii) they comply with the requirements of paragraphs 1, 2(*a*), 3 and 4 of Schedule 1.

(5) No person shall on or after 13th December 1993 sell for human consumption, or use in the preparation of food intended for sale for human consumption, any egg products unless—

(*a*) in the case of egg products prepared in Northern Ireland, they were prepared in an approved establishment in accordance with regulation 5; or

(*b*) in the case of egg products from another part of the European Economic Community, they were prepared in an establishment which has been approved in accordance with Article 6 of Council Directive 89/437/EEC(**a**) as amended(**b**) on hygiene and health problems affecting the production and placing on the market of egg products.

Records

4. Any person applying heat treatment to egg products shall—

(*a*) keep accurate records of the results of each test and process carried out by him as specified in Schedule 2 or 3, or in Parts II, III, IV, V or VI of Schedule 4;

(**a**) O.J. No. L212, 22.7.89, p. 87

(**b**) Council Directive 89/662/EEC (O.J. No. L395, 30.12.89, p. 13) and Council Directive 91/684/EEC (O.J. No. L376, 31.12.91, p. 38)

(*b*) retain such records for a period of not less than two years from the date of the test or process to which the record relates;

(*c*) provide such records on request to the appropriate district council.

Approved establishments

5.—(1) No person shall on or after 13th December 1993 manufacture any egg products or (except in the circumstances referred to in regulation 3(4)) apply heat treatment to any egg products for the purpose of sale for human consumption otherwise than in an establishment approved for the purposes of these Regulations by the district council and which complies with the appropriate requirements of Schedules 1 and 8.

(2) The district council on application made to it under this regulation shall issue an approval if it is satisfied that the establishment complies with the requirements of these Regulations.

(3) Each application for an approval of an establishment shall be made in writing under this regulation to the district council by the owner or occupier of, or a person proposing to occupy, the establishment to which the application relates.

(4) The application for the purposes of paragraph (3) shall contain such information as the district council may require.

(5) Each district council shall after an inspection of the establishment consider each application for the approval of any establishment for the purposes of these Regulations and shall approve it only if satisfied that arrangements at the establishment are such that—

(*a*) the storage at and transport from such establishment of egg products will comply with Schedules 5 and 6;

(*b*) the requirements of Schedule 8 will not be contravened;

(*c*) the packaging of egg products will comply with Schedule 9; and

(*d*) the marking of egg products from such establishment will comply with Schedule 10.

(6) The district council shall, not later than 28 days after receipt of the application referred to in paragraph (3), notify the applicant in writing of its decision on each application for an approval under this regulation and of the reasons for any refusal to approve such establishment.

(7) Any approval granted in respect of any establishment under this regulation shall be subject to the condition that any alteration to the establishment shall comply, if appropriate, with the requirements of Schedules 1, 5 and 8.

(8) Any person who is aggrieved by the decision of a district council not to grant an approval or by the imposition of specified conditions, may appeal against that decision in accordance with the provisions of Article 37(2) and (3) of the Order.

(9) The district council shall allot an approval number to each establishment it approves for the purpose of these Regulations.

(10) Without prejudice to Articles 8 to 11 of the Order, where the district council has refused an approval under this regulation, a person who both prior

to the commencement of these Regulations and immediately before such refusal had been using an establishment for the handling of egg products, may continue to use it for that purpose, subject to any reasonable conditions imposed by the district council for the protection of public health, until the time for appeal has expired and, if an appeal is lodged, until the appeal is finally disposed of or abandoned.

Revocation of approvals

6.—(1) The Department may revoke an approval granted under regulation 5 in respect of any establishment if, after an inspection of, or an inquiry into, the method of operation of the establishment it is satisfied in respect of the establishment—

(*a*) that any of the requirements of these Regulations is no longer being complied with;

(*b*) that any of the requirements of these Regulations has not been complied with and no action has been taken to ensure that a similar breach does not occur in future; or

(*c*) that any condition of the approval in accordance with regulation 5(7) has not been complied with.

(2) The Department shall forthwith notify the owner or occupier in writing of its decision under paragraph (1) to revoke any approval granted under these Regulations, in respect of any establishment, of the date on which the revocation is to take effect and of the reasons for such revocation, and the procedure in respect of any appeal against such revocation shall be that set out in regulation 5(8).

Movement between approved establishments

7.—(1) No person shall despatch a container of non-pasteurised egg products from an approved establishment for treatment at another approved establishment unless he ensures that—

(*a*) as soon as the egg products have been obtained after breaking the eggs they shall be stored deep frozen or chilled in accordance with Schedule 5, and

(*b*) the egg products comply with the requirements specified in Schedule 1, other than paragraphs 6, 7, 8 and 15, and with the transport requirements specified in Schedule 6.

(2) For the purposes of these Regulations non-pasteurised egg products which satisfy the conditions specified in sub-paragraphs (1)(*a*) and (*b*) shall be deemed to meet the requirements in paragraphs 6, 7, 8 and 15 of Schedule 1.

(3) Notwithstanding the marking provisions specified in Schedule 10, no person shall despatch a container of non-pasteurised egg products from an approved establishment for treatment at another approved establishment unless he ensures that the container is labelled with the following information—

(*a*) the words ''non-pasteurised egg products'';