1993 No. 53

FOOD

FOOD SAFETY

The Food Safety (Fishery Products on Fishing Vessels) Regulations (Northern Ireland) 1993

Made . . . . . 9th February 1993

Coming into operation . . 17th March 1993

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 16(1), 25(3) and 26(3) of 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 that 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Food Safety (Fishery Products on Fishery Vessels) Regulations (Northern Ireland) 1993 and shall come into operation on 17th March 1993.

(2) In these Regulations—

"the first Directive" means Council Directive 91/493/EEC(**b**), of 22nd July 1991, laying down the health conditions for the production and the placing on the market of fishery products;

"the second Directive" means Council Directive 92/48/EEC(**c**), of 16th June 1992, laying down minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1)(*a*)(i) of the first Directive;

"additional hygiene conditions" means the additional hygiene conditions laid down in Annex II to the second Directive which is set out in Part II of the Schedule, other than the conditions specified in point 9 of that Annex;

"chilling" means any process of cooling fishery products to a temperature approaching that of melting ice;

"derogation" means the grant of a further period within which to comply fully with the relevant requirements;

(**a**) S.I. 1991/762 (N.I. 7). *See* Article 2(2) for the definitions of "regulations" and "the Department concerned".
(**b**) O.J. No. L268, 24.9.91, p. 15
(**c**) O.J. No. L187, 7.7.92, p. 41

"fishery products" means all seawater or freshwater animals or parts thereof, including their roes, but excluding aquatic mammals, frogs and aquatic animals covered by other Community acts;

"fishing vessel to which Article 1.2 of the second Directive applies" means a fishing vessel designed and equipped to preserve fishery products on board under satisfactory conditions for more than twenty-four hours, other than one equipped for keeping fish, shell-fish and molluscs alive without other means of conservation on board;

"frozen product" means any fishery product which has undergone a freezing process;

"general hygiene conditions" means the conditions specified in Annex I to the second Directive, which is set out in Part I of the Schedule;

"prepared product" means any fishery product which has undergone an operation affecting its anatomical wholeness, such as gutting, heading, slicing, filleting or chopping;

"relevant requirement" means the requirements laid down in points 8(*b*) and (*e*) of Annex II to the second Directive.

Hygiene conditions for fishing vessels

2.—(1) No person shall carry out on a fishing vessel any commercial operation in relation to fishery products unless the general hygiene conditions are fulfilled in relation to that vessel and the operations carried out on it.

(2) Subject to paragraph (3), no person shall carry out on a fishing vessel to which Article 1.2 of the second Directive applies any commercial operation in relation to fishery products unless the additional hygiene conditions are also fulfilled in relation to that vessel and the operations carried out on it.

(3) The provisions of paragraph (2) do not apply in relation to a vessel and a relevant requirement in so far as a derogation is in force in respect of them, provided that the vessel and the fishery products handled on it meet such of the hygiene requirements of the first Directive as are applicable to them.

Application for a derogation

3.—(1) The proprietor of a food business which consists of or includes commercial operations with respect to fishery products carried out on a fishing vessel to which Article 1.2 of the second Directive applies may apply to the Department, before 31st March 1993, for a derogation.

(2) An application for the purposes of paragraph (1) shall—

(*a*) be made in writing;

(*b*) specify the fishing vessel, and the relevant requirements in respect of which a derogation is sought; and

(*c*) be accompanied by a plan of the work intended by the proprietor together with a timetable indicating the period within which the proprietor intends that the relevant requirement the subject of the application for a derogation shall be met.

Method of determining an application for a derogation

4.—(1) After receiving an application, made in accordance with regulation 3, for a derogation in respect of a fishing vessel the Department shall send a copy of it to the district council in whose district the fishing vessel is based.

(2) A district council which receives a copy of an application pursuant to paragraph (1) shall invite the representations of the applicant and, after having regard to any such representations, shall send to the Department, as soon as possible, a written assessment of the need for the derogation and of the suitability of the plan of the work and the timetable.

(3) A district council shall at the same time as providing the written assessment to the Department, send a copy of it to the applicant inviting him to send to the Department, within 8 weeks of the date on which the assessment was sent to the Department, his observations on it.

(4) After considering the assessment of the district council and any observations made pursuant to the invitation mentioned in paragraph (3), the Department shall either grant or refuse the application for a derogation in respect of all or any of the requirements in respect of which a derogation was sought.

(5) Subject to paragraph (6) if an application for a derogation is granted the Department shall—

(*a*) designate the fishing vessel, and the relevant requirements in respect of which the derogation is granted; and

(*b*) specify the period of the derogation, which shall not in any case expire after 31st December 1995.

(6) If an application is refused or is granted otherwise than in accordance with the application the Department shall give written notice to the applicant of the reasons for its decision.

(7) The Department shall in all cases give written notice of its decision to both the applicant and the district council which provided the assessment.

List of vessels

5. The Department shall be the competent authority for the purposes of point 9 of Annex II to the second Directive (list of vessels).

Offences etc.

6.—(1) A person who contravenes regulation 2(1) or regulation 2(2) shall be guilty of an offence under these Regulations and be liable—

(*a*) on summary conviction, to a fine not exceeding £2,000;

(*b*) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

(2) The following provisions of the Food Safety (Northern Ireland) Order 1991 shall apply for the purposes of these Regulations as they apply for the purposes of Articles 7, 13 or 14 of that Order and unless the context otherwise requires a reference in them to the Order shall be construed as a reference to these Regulations:

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

(*b*) Article 20 (defence of due diligence);

(*c*) Article 30(8) (which relates to documentary evidence);

(*d*) Article 34 (obstruction etc. of officers).

Enforcement and execution

7. These Regulations shall be enforced and executed by each district council within its district.

Transitional provisions

8. A person who has applied before 31st March 1993 for a derogation in respect of a fishing vessel which was, on 30th June 1992, normally used for fishing activities, shall, until the application is determined, be treated as having been granted a derogation in accordance with his application.

Sealed with the Official Seal of the Department of Health and Social Services on 9th February 1993.

(L.S.) *J. Scott*

Assistant Secretary