1993 No. 51

FOOD

The Food Safety (Fishery Products) 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 15(1), 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 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) Regulations (Northern Ireland) 1993 and shall come into operation on 17th March 1993.

(2) In these Regulations—

"aquaculture products" means—

(*a*) all fishery products born or raised in controlled conditions until placed on the market as a foodstuff, and

(*b*) all seawater fish, freshwater fish or crustaceans caught in their natural environment when juvenile and kept until they reach the desired commercial size for human consumption, other than fish or crustaceans of commercial size caught in their natural environment and kept alive to be sold at a later date, if they are merely kept alive without any attempt being made to increase their size or weight;

"batch" means the quantity of fishery products obtained under practically identical circumstances;

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

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

"clean seawater" means seawater or briny water which is free from any microbiological contamination, harmful substances or toxic marine plankton in such quantities as may affect the health quality of fishery products, and which is used under the conditions laid down in these Regulations;

"the Commission" means the Commission of the European Communities;

"consignment" means a quantity of fishery products bound for one or more customers in the country of destination and conveyed at any one time by a single means of transport;

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

"derogation" means a derogation under either the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992(**b**) or the Food Safety (Fishery Products on Fishing Vessels) Regulations (Northern Ireland) 1993(**c**);

"drinking water" means water within the meaning of Council Directive 80/778/EEC(**d**) (quality of water intended for human consumption);

"establishment" means any premises where fishery products are prepared, processed, chilled, frozen, packaged or stored including auction or wholesale markets where any such preparation or processing of fishery products takes place but not such auction or wholesale markets where only display and sale by wholesale takes place;

"factory vessel" means any vessel on which fishery products undergo one or more of the following operations followed by packaging, namely, filleting, slicing, skinning, mincing, freezing or processing but does not include a fishing vessel in which only shrimps and molluscs are cooked on board, or a fishing vessel on board which only freezing is carried out;

"final consumer" means a person who buys fishery products—

(*a*) for his own consumption or consumption by his partner, family or other person in a solely domestic context;

(*b*) for direct transport to, and consumption on, premises either in his ownership or under his personal supervision or in the ownership or under the personal supervision of a person employed by him; or

(*c*) for cooking on premises either in his ownership or under his personal supervision or in the ownership or under the personal supervision of a person employed by him for sale as take-away food for consumption off those premises;

(**a**) O.J. No. L268, 24.9.91, p. 15
(**b**) S.R. 1992 No. 296
(**c**) S.R. 1993 No. 53
(**d**) O.J. No. L229, 30.8.80, p. 11. Directive last amended by Directive 91/377/EEC (O.J. No. L377, 31.12.91, p. 48)

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

"the Fishing Vessel Directive" means Council Directive 92/48/EEC(a) 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 Council Directive;

"fresh products" means any fishery products whether whole or prepared, including products packaged under vacuum or in a modified atmosphere, which have not undergone any treatment to ensure preservation other than chilling;

"frozen products" means fishery products which have undergone a freezing process;

"means of transport" means those parts of road or rail vehicles, aircraft or ships, including containers and trailers used in conjunction with any such transport, constructed or adapted for the transport of goods;

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

"packaging" means the procedure of protecting fishery products by a wrapper, a container or any other suitable means;

"placing on the market" means, in relation to fishery products for human consumption, the holding for sale, exposing for sale, displaying for sale, offering for sale, selling, consigning, delivering or any other associated activity of marketing but not either a sale to a final consumer or a sale by a fisherman of a small quantity within a local market in the circumstances specified in regulation 13;

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

"preserving" means the process whereby fishery products are packaged in hermetically sealed containers and subjected to heat treatment to the extent that any micro-organisms that might proliferate are destroyed or inactivated, irrespective of the temperature at which the product is to be stored;

"processed product" means any product comprising not less than 10% by weight of fishery product which has undergone a chemical or physical process, such as the heating, smoking, salting, dehydration or marinating of chilled or frozen products, whether or not associated with other foodstuffs, or a combination of these processes.

(3) In the Schedules—

(*a*) a reference to the Annex is a reference to the Annex in the Council Directive;

(*b*) a reference to a numbered Chapter is a reference to the Chapter which bears that number in the Annex.

(a) O.J. No. L187, 7.7.92, p. 41

Placing fishery products on the market

2. No person shall place on the market any fishery products caught in their natural environment which do not meet the following requirements—

(*a*) that they have been caught and any operations to bleed, head, gut or remove fins, chill or freeze the products have been carried out in accordance with the requirements of the Fishing Vessel Directive;

(*b*) if they have been handled in a factory vessel, that the vessel, if registered in a member State of the European Economic Community, is approved pursuant to regulation 8, and is operated in accordance with the requirements of Chapter I of the Annex relating to factory vessels, as set out in the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992;

(*c*) that during and after landing they have been handled in accordance with the requirements of Chapter II of the Annex relating to landing, as provided for in the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992;

(*d*) that they have been handled and, where appropriate, packaged, prepared, processed, frozen, defrosted or stored hygienically in establishments approved in accordance with regulation 8 and the requirements of Chapter III of the Annex relating to general conditions for establishments on land and special conditions for handling fishery products on shore, as provided for in the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992;

(*e*) that they shall have been the subject of the health control and monitoring described in Schedule 1 except where the district council has authorised the transfer of fishery products *ex quay* into containers for immediate delivery to an approved establishment or registered auction or wholesale market to be checked there, in which case a check on the conditions of landing is not required;

(*f*) that they have been appropriately packaged in accordance with Schedule 2;

(*g*) that they have been given an identification mark in accordance with Schedule 3;

(*h*) that they have been stored and transported under satisfactory conditions of hygiene in accordance with Schedule 4.

Gutting

3. An operator having control over the timing of the gutting of a fishery product, where such gutting is possible from a technical and commercial viewpoint, shall ensure that it is carried out as soon as possible after the product has been caught or landed.

Placing aquaculture products on the market

4. Subject to regulation 22(1), no person shall place aquaculture products on the market which do not meet the following requirements—

(*a*) that they were slaughtered under appropriate conditions of hygiene and, in particular—

(i) that they are not soiled with earth, slime or faeces, and

(ii) if not processed immediately after slaughter, that they are kept chilled; and

(*b*) the requirements of regulation 2(*c*) to (*g*).

Placing processed bivalve molluscs and other shellfish on the market

5. Subject to regulation 22(1), no person shall place processed bivalve molluscs or other shellfish on the market unless—

(*a*) prior to processing they meet the requirements of the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations (Northern Ireland) 1993(**a**); and

(*b*) at the time of placing on the market they satisfy the requirements of regulation 2(*d*) to (*h*).

Fishery products to be placed live on the market

6. A person with control over the survival conditions of a fishery product which is to be placed on the market alive, shall ensure that it is at all times kept under conditions most suitable for its survival.

Specified fishery products not to be placed on the market

7. No person shall place on the market any of the following—

(*a*) poisonous fish of the species Tetraodontidae, Molidae, Diodontidae or Canthigasteridae;

(*b*) fishery products containing biotoxins including ciguatera or muscle-paralysing toxins.

Approval of factory vessels, and establishments

8.—(1) Subject to regulation 22(2) and any derogation, no person shall operate any factory vessel or establishment unless it has been approved by the relevant district council and no such vessel or establishment shall be so approved unless—

(*a*) the district council is satisfied that it meets the requirements of these Regulations; or

(*b*) the district council is satisfied that it meets the requirements of these Regulations save in so far as there is in force in respect of it a derogation and the terms on which it was granted are complied with.

(2) An application for approval pursuant to paragraph (1) in respect of a factory vessel or an establishment shall be made by the proprietor of the food business in the course of which fishery products are handled there and shall be—

(a) S.R. 1993 No. 52