1992 No. 434

EUROPEAN COMMUNITIES
FOOD

The Imported Food and Feedingstuffs (Safeguards against Cholera) Regulations (Northern Ireland) 1992

Made . . . . . *7th October 1992*

Coming into operation . . *16th November 1992*

The Department of Health and Social Services for Northern Ireland, being a designated Department(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Economic Community, in exercise of the powers conferred on it by the said section 2(2) and in exercise of the powers conferred on it by Articles 15(1)(*f*), 16(1) and (2), 25(3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**c**) 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Imported Food and Feedingstuffs (Safeguards against Cholera) Regulations (Northern Ireland) 1992 and shall come into operation on 16th November 1992.

(2) In these Regulations—

"affected country" means Brazil, Colombia, Ecuador or Peru;

''aquaculture product'' means any fish, or any product of a fish, hatched and raised in controlled conditions until placed on the market as a foodstuff and includes seawater or freshwater fish caught in their natural environment when juvenile and kept until they reach the desired commercial size for human consumption and any product of such a fish;

''bivalve mollusc'' means a filter-feeding lamellibranch mollusc;

"CERPER" means El Centro de Certificaciones Pesqueras in El Callao, Peru;

"the Council Regulation" means Council Regulation (EEC) No. 3185/91 adopting protective measures for the import of fruit and vegetables from certain countries affected by cholera(**d**);

(**a**) S.I. 1972/1811
(**b**) 1972 c. 68
(**c**) S.I. 1991/762 (N.I. 7). *See* Article 2(2) for the definitions of "regulations" and "the Department concerned"
(**d**) O.J. No. L303, pp. 1-5, 1.11.91

"fish" means any seawater or freshwater animals, crustaceans or molluscs (other than bivalve molluscs) or parts of them including their roes but excludes aquatic mammals and frogs;

"marine bivalve mollusc" means a bivalve mollusc caught in seawater;

"marine fish" means a fish caught in seawater;

"member State" means a member State of the European Economic Community other than the United Kingdom;

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

"proper authority" means—

(*a*) as respects Colombia, the Ministry of Health of Colombia;

(*b*) as respects Ecuador, the National Fisheries Institute of Ecuador.

(3) For the purposes of these Regulations—

(*a*) a fish product is from an affected country if it consists of, or is derived from, any fish which has been landed there, subjected there to any process of preparation or consigned from there by way of export;

(*b*) a bivalve mollusc is from an affected country if it has been landed there, subjected there to any process of preparation or consigned from there by way of export.

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

Prohibition on importation of fish products from Peru

2.—(1) Subject to paragraph (6), no person shall import into Northern Ireland—

(*a*) any bivalve mollusc from Peru or any product thereof;

(*b*) any fish product intended for human or animal consumption which consists of, or is derived from, fish landed in Peru in the course of artisanal fishing, that is to say fishing carried on by an individual mainly for the purpose of providing fish for consumption by the individual and his family.

(2) Subject to paragraphs (3), (4), (5) and (6) no person shall import into Northern Ireland for human consumption, or consumption by an animal, any fish product from Peru.

(3) The prohibition imposed by paragraph (2) does not apply to a marine fish product if it is accompanied by a numbered and dated certificate issued by, and signed by an authorised officer of CERPER containing the particulars mentioned in paragraph 1 of Schedule 1 and the declaration mentioned in paragraph 2 of that Schedule.

(4) The prohibition imposed by paragraph (2) does not apply to rainbow trout (*salmo gairdneri*) prepared for sale by Piscifactorias de Los Andes S.A. in the province of Concepción in Peru imported as or as part of a consignment which is accompanied by—

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

(*a*) a certificate from CERPER containing the declaration and particulars referred to in paragraph (3); and

(*b*) a certificate from the Peruvian Ministry of Health that at the date of despatch of the consignment no case of *Vibrio cholera* had been detected in the province of Concepción.

(5) The prohibition imposed by paragraph (2) does not apply to fishmeal.

(6) The prohibition imposed by paragraphs (1)(*a*) and (2) does not apply to any marine fish, marine fish product or marine bivalve mollusc or any product thereof which is caught by a vessel of the United Kingdom or of a member State and which is consigned to the territory of the European Economic Community from Peru under the customs procedure introduced by Commission Regulation (EEC) No. 137/79(**a**)

Prohibition on importation of fish products from Ecuador and Colombia

3.—(1) Subject to paragraphs (2) and (3) no person shall import into Northern Ireland for human consumption any fish, fish product or bivalve mollusc from Ecuador or Colombia.

(2) The prohibition imposed by paragraph (1) does not apply to fish, fish products or bivalve molluscs from Ecuador or Colombia intended for human consumption which are imported as, or as part of, a consignment which is accompanied by a numbered and dated document issued by the proper authority in that country, signed by an authorised officer of that authority and containing the particulars set out in Schedule 2.

(3) The prohibition imposed by paragraph (1) does not apply to any marine fish, marine fish product, or marine bivalve mollusc or product thereof which is caught by a vessel of the United Kingdom or of a member State and which is consigned to the territory of the European Economic Community from Ecuador or Colombia under the customs procedure introduced by Commission Regulation (EEC) No. 137/79.

Prohibition on importation of fish products from Brazil

4.—(1) No person shall import into Northern Ireland—

(*a*) any aquaculture product from Brazil;

(*b*) any bivalve mollusc from Brazil which has not been heat-treated or any product thereof.

(2) Subject to paragraphs (3) and (4) no person shall import into Northern Ireland any fish or fish product or heat-treated bivalve mollusc or any product thereof from Brazil.

(3) The prohibition imposed by paragraph (2) does not apply to any marine fish or marine fish product or marine bivalve mollusc or product thereof which is caught by a vessel of the United Kingdom or of a member State and which is consigned to the territory of the European Economic Community from Brazil under the customs procedure introduced by Commission Regulation (EEC) No. 137/79.

(**a**) O.J. No. L20, pp. 1-8, 27.1.79

(4) The prohibition imposed by paragraph (2) does not apply to fish, fish products, heat-treated bivalve molluscs or products thereof which are imported as, or as part of, a consignment which is accompanied by a numbered and dated document issued by and signed by an authorised officer of the Federal Inspection Service of the Ministry of Agriculture of Brazil (''SIF'') containing the particulars mentioned in paragraph 1 of Schedule 3 and the declaration mentioned in paragraph 2 of Schedule 3.

Prohibition on export to other member States of fish products and bivalve molluscs originating in an affected country

5.—(1) Subject to paragraph (2) no person shall consign for export to a member State any fish, fish product or bivalve mollusc which is from an affected country other than Brazil and is intended for human or animal consumption.

(2) The prohibition imposed by paragraph (1) does not apply to a consignment if each lot of which the consignment is comprised has been inspected by an authorised officer of a district council and he is satisfied that—

(*a*) the consignment is accompanied by such documents as are required by regulation 2 or 3 to accompany it on its importation; and

(*b*) the lots referred to in those documents are the lots actually comprising the consignment.

Offences

6.—(1) Any person who contravenes regulation 2(1) or (2), 3(1), 4(1) or (2), or 5(1) shall be guilty of an offence, triable only summarily, and liable on conviction to imprisonment for a period not exceeding three months, or to a fine not exceeding £2,000, or to both.

(2) Any person who imports into Northern Ireland, or consigns for export from Northern Ireland to a member State, any fruit or vegetable or fruit or vegetable product to which article 1 of the Council Regulation applies, otherwise than in compliance with such of the provisions of article 2 of that Regulation as apply to it, shall be guilty of an offence, triable only summarily, and liable upon conviction to imprisonment for a period not exceeding three months, or to a fine not exceeding £2,000, or to both.

Application of provisions of the Order

7. The following provisions of the Order shall apply for the purposes of these Regulations as they apply for the purposes of Articles 7, 13 and 14 of the Order and, unless the context otherwise requires, a reference in them to the Order shall be construed as a reference to these Regulations—

(*a*) Articles 2(4) and 3 (extended meaning of "sale" etc.);

(*b*) Article 4 (presumptions that food intended for human consumption);

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

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

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

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

Authentication of certificates

8. For the purposes of these Regulations, any certificate purporting to bear the signature of an officer who is expressed—

(*a*) to hold an office by virtue of which he is empowered to sign such a certificate; or

(*b*) to be duly authorised by a proper authority, CERPER, the Peruvian Ministry of Health or the Federal Inspection Service of the Ministry of Agriculture of Brazil, to sign such a certificate,

shall be deemed, until the contrary is proved, to have been duly given, made or issued by authority of a proper authority, CERPER, the Peruvian Ministry of Health or the Federal Inspection Service of the Ministry of Agriculture of Brazil, as the case may be.

Enforcement and execution

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

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 7th October 1992.

(L.S.) *J. Scott*

Assistant Secretary