1992 No. 296

FOOD

The Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992

Made . . . . . 29th June 1992

Coming into operation . . 1st July 1992

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 16(1) 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) (Derogations) Regulations (Northern Ireland) 1992 and shall come into operation on 1st July 1992.

(2) In these Regulations—

"the Council 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;

"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 conditions for the approval of factory vessels, establishments, auction markets or wholesale markets set out in Chapters I to IV of the Annex to the Council Directive, which conditions are set out in column (1) of the Schedule;

"establishment" means any premises where fishery products are prepared, processed, chilled, frozen, packaged or stored but not premises of 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: filleting, slicing, skinning, mincing, freezing or processing but not 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;

(**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

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

"frozen product" means any fishery product which has undergone a freezing process to reach a core temperature of −18°C or lower after temperature stabilization;

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

"processed product" means any 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;

"relevant requirement" means subject to paragraph (3) a condition set out in column (1) of the Schedule in respect of which there is an entry in column (2) of the Schedule which indicates that it is a condition in respect of which, in accordance with Chapter IX of the Council Directive, a derogation may be made.

(3) For the purposes of these Regulations where there is in relation to a relevant requirement a limitation mentioned in column (2) of the Schedule, that requirement is a relevant requirement only to the extent indicated by that limitation.

(4) In the Schedule—

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

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

(*c*) a reference in a Chapter to a numbered section or point is a reference to the section or point which bears that number in that Chapter.

Approval of factory vessels, establishments, auction markets and wholesale markets

2. On and after 1st January 1993 no person shall operate any factory vessel, establishment, auction market or wholesale market unless it has been approved by the Department, and no such centre shall be so approved unless—

(*a*) the Department is satisfied that it meets the requirements of the Council Directive; or

(*b*) the Department is satisfied that it meets those requirements save in so far as there is in operation in respect of it a derogation granted under regulation 4.

Method of applying for a derogation

3.—(1) The proprietor of a food business which consists of or includes the operation of a factory vessel, establishment, auction market or wholesale market which was operating either on the 31st December 1991, or on the last

working day immediately before that date, may apply to the Department, before 1st July 1992, for a derogation.

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

(*a*) be made in writing;

(*b*) specify in respect of which factory vessel, establishment, auction market or wholesale market and which of the relevant requirements 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 the factory vessel, establishment, auction market or wholesale market to comply with the relevant requirement the subject of the application for a derogation.

Method of determining an application for a derogation

4.—(1) After receiving an application for a derogation in respect of a factory vessel, establishment, auction market or wholesale market which complies with regulation 3 the Department shall send a copy of it to the district council in whose district the factory vessel, establishment, auction market or wholesale market is situated.

(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, within 12 weeks of receipt of the copy, 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 4 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 factory vessel, establishment, auction market or wholesale market 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 granted for a derogation from any relevant requirement referred to in any of sub-paragraphs (*a*) to (*w*) of paragraph (7), the Department shall specify that the derogation shall apply only if and so long as the condition mentioned in that sub-paragraph is satisfied.

(7) The requirements and conditions referred to in paragraph (6) are—

(*a*) as respects point 1(*a*) of section 1 of Chapter I, the condition is that fishery products are sheltered from the sun and the elements and from any source of dirt or contamination;

(*b*) as respects point 1(*c*) of section 1 of Chapter I, the condition is that the contamination of fishery products is avoided;

(*c*) as respects point 1(*d*) of section 1 of Chapter I, the condition is that the finished products are stored on board at the required temperature;

(*d*) as respects point 1(*g*) of section 1 of Chapter I, the condition is that products for human consumption are not contaminated by waste water, waste or engine coolant;

(*e*) as respects point 1(*h*) of section 1 of Chapter I, the condition is that the staff handling fishery products are able to wash their hands after using the toilet;

(*f*) as respects point 2(*a*) of section 1 of Chapter I, the condition is that the floors are properly cleaned and disinfected;

(*g*) as respects point 3 of section 1 of Chapter I, the condition is that the equipment and tools are well maintained;

(*h*) as respects point 3(*a*) of Chapter II, the condition is that the walls are kept clean;

(*i*) as respects point 3(*b*) of Chapter II, the condition is that the flooring is kept clean after every sale;

(*j*) as respects point 3(*e*) of Chapter II, the condition is that fishery products contaminated by exhaust fumes are withdrawn from the market;

(*k*) as respects point 3(*j*) of Chapter II, the condition is that products which are not fit for human consumption cannot contaminate or be mixed with fishery products;

(*l*) as respects point 1 of section 1 of Chapter III, the condition is that finished products cannot be contaminated by raw materials or waste;

(*m*) as respects point 2(*a*) of section 1 of Chapter III, the condition is that flooring is cleaned and disinfected accordingly;

(*n*) as respects point 2(*b*) of section 1 of Chapter III, the condition is that the walls are kept clean;

(*o*) as respects point 2(*c*) of section 1 of Chapter III, the condition is that the ceiling is not a source of contamination;

(*p*) as respects point 2(*e*) of section 1 of Chapter III, the condition is that products cannot be spoilt or contaminated by the steam;

(*q*) as respects point 2(*g*) of section 1 of Chapter III, the condition is that there are facilities for staff to wash their hands;

(*r*) as respects point 5 of section 1 of Chapter III, the condition is that instruments and working equipment are kept clean;

(*s*) as respects point 6 of section 1 of Chapter III, the condition is that products are not contaminated by waste or leakage therefrom;

(*t*) as respects point 1 of section 1 of Chapter IV, the condition is that products are re-iced as often as necessary during a period not in excess

of 12 hours or that a nearby cold room not belonging to the establishment can be used;

(*u*) as respects point 6 of section 1 of Chapter IV, the condition is that products shall not be able to be contaminated by waste or leakage therefrom;

(*v*) as respects point 5 of section IV of Chapter IV, the condition is that every precaution shall be taken to prevent fishery products that are being prepared or stored from being affected by the smoke;

(*w*) as respects point 6(*a*) of section IV of Chapter IV, the condition is that fishery products that are being prepared or stored are not affected by salting operations.

(8) 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.

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

Enforcement and execution

5. 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 on 29th June 1992.

(L.S.) *John McGrath*
Assistant Secretary