1992 No. 295

FOOD

The Food Safety (Live Bivalve Molluscs) (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 (Live Bivalve Molluscs) (Derogations) Regulations (Northern Ireland) 1992 and shall come into operation on 1st July 1992.

(2) In these Regulations—

"bivalve molluscs" means filter-feeding lamellibranch molluscs;

"the Commission Decision" means Commission Decision 92/92/EEC(**b**), of 9th January 1992, laying down the requirements relating to equipment and structure of dispatch and purification centres for live bivalve molluscs, for which derogations may be granted pursuant to Articles 5 and 12 of the Council Directive;

"conditioning" means storage in tanks or any other installation containing clean sea water or in natural sites to remove sand, mud or slime;

"the Council Directive" means Council Directive 91/492/EEC(**c**), of 15th July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs;

"derogation" means the grant of a further period within which to comply fully with the conditions for the approval of dispatch centres and purification centres set out in Chapter IV of the Annex to the Council Directive, which conditions are set out in column (1) of the Schedule;

(**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. L34/34,11.2.92

(**c**) O.J. No. L268, 24.9.91, p. 1

"dispatch centre" means any on-shore or off-shore installation for the reception, conditioning, washing, cleaning, grading or wrapping of live bivalve molluscs for human consumption;

"purification centre" means an establishment with tanks fed by naturally clean sea water or sea water that has been cleaned by appropriate treatment, in which live bivalve molluscs are placed for the time necessary to remove microbiological contamination, so making them fit for human consumption;

"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 the Commission Decision, 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 dispatch and purification centres

2. On and after 1st January 1993 no person shall operate any dispatch centre or purification centre 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 dispatch centre or purification centre 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 centre 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 dispatch or purification centre 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 centre which complies with the requirements of regulation 3 the Department shall send a copy of it to the district council in whose district the centre 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 written 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) If an application for a derogation is granted the Department shall—

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

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

(*c*) specify in the case of a derogation from the requirement in point 6 of section II of the Schedule that the derogation shall apply only if and so long as any products intended for human consumption are not contaminated by waste or leakage from waste products; and

(*d*) specify in the case of a derogation from the requirement in point 7 of section II of the Schedule that the derogation shall apply only if and so long as the products referred to in that point are sheltered from the sun and the elements and from any source of dirt or contamination.

(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.

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

Requirements of Chapter IV of the Annex

Column (1)	*Column (2)*
CHAPTER IV. CONDITIONS FOR THE APPROVAL OF DISPATCH OR PURIFICATION CENTRES	WHETHER DEROGATION POSSIBLE AND LIMITATIONS
Section I. General conditions relating to premises and equipment	
Centres must not be located in areas which are close to objectionable odours, smoke, dust and other contaminants. The location must not be subject to flooding by ordinary high tides or run-off from surrounding areas.	no
Centres must have at least:	
1. on premises where live bivalve molluscs are handled or stored:	
(*a*) buildings or facilities of sound construction, designed and maintained adequately for the purpose of preventing contamination of live bivalve molluscs by any type of waste, dirty water, fumes, dirt or by the presence of rodents or other animals;	yes, in so far as the construction of buildings or facilities is concerned
(*b*) flooring which is easy to keep clean and is laid in such a way as to facilitate drainage;	yes
(*c*) adequate working space to allow for satisfactory performance of all operations;	yes
(*d*) durable walls which are easy to clean;	yes
(*e*) adequate natural or artificial lighting;	yes
2. access to an appropriate number of changing rooms, wash basins and lavatories; there must be a sufficient number of wash basins close to the lavatories;	yes, in so far as the requirement relates to the number of changing rooms