1992 No. 172

FOOD

Food (Control of Irradiation) Regulations (Northern Ireland) 1992

Made	*30th March 1992*
Coming into operation . .	*4th May 1992*

Whereas, in accordance with Article 18(2) of the Food Safety (Northern Ireland) Order 1991(**a**) ("the Order") it appears to the Department of Agriculture and the Department of Health and Social Services acting jointly as the Department concerned, to be necessary or expedient—

(*a*) for the purpose of securing that food complies with food safety requirements or in the interests of the public health; or

(*b*) for the purpose of protecting or promoting the interests of consumers,

to make provision for the issue by the Department of Agriculture of licences in respect of the use of premises for the purposes of certain food businesses, and for prohibiting the use for those purposes of any premises except in accordance with such a licence;

And whereas, in accordance with Article 47(1) of the Order, provision in the following Regulations is made for prohibiting or regulating the carrying out of commercial operations in relation to food or contact material insofar as it relates to importation with a view to the prevention of disease (including the protection of human health) or with respect to services in connection with, or the regulation of, the quality, transport, marketing or identification of the food or contact material;

Now therefore the said Department concerned, in exercise of the powers conferred on it by Articles 15(1) and (3), 17(1), 18(1), 25, 26(3), 44 and 47(2) of, and paragraphs 1 and 4 of Schedule 1 to, the Order and of every other power enabling it in that behalf, after consultation in accordance with Article 47(3) of the Order with such organisations as appear to it to be representative of interests likely to be substantially affected thereby, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food (Control of Irradiation) Regulations (Northern Ireland) 1992 and shall come into operation on 4th May 1992.

(a) S.I. 1991/762 (N.I. 7)

Interpretation

2.—(1) In these Regulations—

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

''alteration agreement charge'' shall be construed in accordance with paragraph 1(1) of Part III of Schedule l;

''applicant'' means a person who has applied for an irradiation licence and includes such a person after the licence has been issued to him;

''application consideration charge'' shall be construed in accordance with paragraph 3(2) of Part I of Schedule 1;

''food'' means food intended for sale for human consumption;

''ionising radiation'' means any gamma rays, X rays or corpuscular radiations which are capable of producing ions either directly or indirectly, other than—

(*a*) those rays or corpuscular radiations—

(i) which are emitted by measuring or inspection devices,

(ii) which are emitted at an energy level no higher than the appropriate maximum level, and

(iii) the dose of energy imparted by which does not exceed 0.5Gy, or

(*b*) those rays or corpuscular radiations applied in respect of food prepared under medical supervision for patients requiring sterile diets,

and for the purposes of this definition the appropriate maximum level is 10 MeV in the case of X rays and 5 MeV otherwise;

''inspection charge'' shall be construed in accordance with paragraph 2 of Part VI of Schedule l;

''irradiation licence'' means a licence to subject food of a particular description to treatment by ionising radiation;

''licensing authority'' means the Department of Agriculture;

''official authorisation'' means authorisation granted by a competent authority in a member State of the European Economic Community (other than the United Kingdom) to subject food of a particular description to treatment by ionising radiation in a particular plant;

''sell'' includes possess, offer, expose and advertise for sale;

(2) For the purposes of these Regulations—

(*a*) ''properly irradiated food'' means food—

(i) which falls within one of the seven permitted descriptions of food,

(ii) which, when subjected to treatment by ionising radiation, either was so subjected alone or was so subjected as part of a batch each item of food comprised in which was food which fell within the same permitted description of food, and

(iii) which has not been over-irradiated;

(*b*) food falls within one of the seven permitted descriptions of food when (excluding the weight of any added water) not less than 98 per cent of

it by weight falls within that description and "item", in relation to a batch of food, means each item within that batch intended to be capable of being sold individually;

(*c*) the seven permitted descriptions of food are—

(i) fruit,

(ii) vegetables,

(iii) cereals,

(iv) bulbs and tubers,

(v) spices and condiments,

(vi) fish and shellfish, and

(vii) poultry;

(*d*) in those seven permitted descriptions of food—

(i) "fruit" includes fungi, tomatoes and rhubarb,

(ii) "vegetables" excludes fruit, cereals, bulbs and tubers and spices and condiments but includes pulses,

(iii) "cereals" has the meaning which it has in the Intervention Functions (Delegation) Regulations 1972(a),

(iv) "bulbs and tubers" means potatoes, yams, onions, shallots and garlic,

(v) "spices and condiments" means dried substances normally used for seasoning,

(vi) "fish and shellfish" includes eels, crustaceans and molluscs, and

(vii) "poultry" means domestic fowls, geese, ducks, guinea fowls, pigeons, quails and turkeys;

(*e*) food has been over-irradiated when the overall average dose of ionising radiation absorbed by it, measured by the approved method of measurement, exceeds, in the case of food falling within the permitted description of—

(i) fruit, 2 kGy,

(ii) vegetables, 1 kGy,

(iii) cereals, 1 kGy,

(iv) bulbs and tubers, 0.2 kGy,

(v) spices and condiments, 10 kGy,

(vi) fish and shellfish, 3 kGy, or

(vii) poultry, 7 kGy,

or when the maximum dose of ionising radiation absorbed by it, or by any food in a batch of which it forms part, is, when so measured, a dose of kGy higher than the lower of 3x and 1.5y where x is the minimum dose of kGy so absorbed when so measured and y is the overall average dose of kGy specified in the

(a) S.I. 1972/1679, as amended by S.I. 1988/1000

paragraph of this sub-paragraph relating to that permitted description; and

(*f*) the approved method of measurement relating to food subjected to treatment by ionising radiation is the method of measuring doses of ionising radiation required by the irradiation licence or, as the case may be, official authorisation under which that food has been subjected to that treatment.

Prohibition on treatment without licence

3.—(1) A person shall not, in the preparation of any food for sale, subject it or any part of it to treatment by ionising radiation unless—

(*a*) he holds a current irradiation licence;

(*b*) the food so subjected is food which he is authorised by that irradiation licence to subject to that treatment; and

(*c*) that treatment is carried out in accordance with the conditions of that irradiation licence.

(2) Schedule 1 shall have effect in relation to—

(*a*) the issue of irradiation licences;

(*b*) the periods for which and the conditions subject to which the licences may be issued;

(*c*) the alteration of those conditions;

(*d*) the cancellation, suspension or revocation of the licences; and

(*e*) the charges payable to the licensing authority for things done by it under the Schedule.

Restriction on importation

4.—(1) A person shall not import into Northern Ireland from any place outside the United Kingdom for the purpose of sale any food which has been subjected to treatment by ionising radiation unless that food is properly irradiated food, is of a recognised appropriate origin and is accompanied by appropriate documentation.

(2) For the purposes of paragraph (1), Schedule 2 shall have effect in relation to the recognition and withdrawal of recognition of appropriate origins and specification of appropriate documentation.

(3) This regulation applies to food which has (as well as food which has not) become an ingredient of other food before importation.

Restriction on storage and transport

5.—(1) A person shall not store or transport for the purpose of sale any food which has been subjected to treatment by ionising radiation unless either he is the holder of the irradiation licence under which the food was so treated, or that food is stored or, as the case may be, transported in accordance with the requirements of Schedule 3.

(2) This regulation applies to food which has (as well as food which has not) become an ingredient of other food before storage or, as the case may be, transportation.

Restriction on sale

6. A person shall not sell any food which, or any part of which, has been subjected to treatment by ionising radiation unless—

(*a*) either—

(i) that treatment took place in the United Kingdom in accordance with regulation 3 and all requirements of the irradiation licence under which that food was so treated have been observed, or

(ii) that food was imported from any place outside the United Kingdom in compliance with regulation 4; and

(*b*) any storage or transportation of that food in the United Kingdom was carried out in compliance with regulation 5.

Activities taking place in Great Britain

7. In relation to food which has been subjected to treatment by ionising radiation, compliance with any provision (corresponding to a provision of these Regulations) of legislation for the time being having effect in Great Britain which regulates the subjection to treatment by ionising radiation, importation, storage and transport of that food shall in respect of any activity which took place in Great Britain, be treated for the purposes of these Regulations as if it were compliance with the corresponding provision of these Regulations.

Defence in relation to exports

8.—(1) In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

(*a*) that the food, in respect of which the offence is alleged to have been committed, was intended for export to another Member State of the European Economic Community and that the food complied with that Member State's domestic food legislation relevant to the alleged offence; or

(*b*) that the food, in respect of which the offence is alleged to have been committed, was intended for export to a country which is not a member of the European Economic Community for sale to the ultimate consumer within that country.

(2) In this regulation "ultimate consumer" has the meaning which it has in the Food Labelling Regulations (Northern Ireland) 1984(**a**).

Penalties, enforcement and functions of licensing authority

9.—(1) If any person contravenes any of the foregoing provisions of these Regulations or, for the purposes of these Regulations, makes any false statement or uses any document containing a false statement either recklessly or knowing it to be false, he shall be guilty of an offence and shall be liable—

(*a*) on summary conviction to a fine not exceeding £2,000 or to imprisonment for a term not exceeding six months or both; and

(**a**) S.R. 1984 No. 407 to which there are amendements not relevant to these Regulations.