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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 207**

**Food Safety (Fishery Products and Live Shellfish)  
(Hygiene) Regulations (Northern Ireland) 1998**

**Part III**

**Production and Placing on the Market of Fishery Products**

**Registration of fishing vessels on board which shrimps or molluscs are cooked**

**21.**—(1) A person operating a fishing vessel on board which shrimps and molluscs are, for the purposes of a food business, processed by cooking shall, unless such processing is to be supplemented subsequently by cooking, comply with paragraphs (2) and (4).

(2) The person operating the fishing vessel to which paragraph (1) applies shall, prior to engaging for the first time in such cooking, give notice in writing of his intention to do so to the district council for the area in which the vessel is based and shall at the same time supply that council with the following information—

- (a) the name of the vessel;
- (b) the usual place of landing of the processed products;
- (c) the name and address of the owner of the vessel, and
- (d) any changes to the information originally supplied under sub-paragraphs (a) to (c).

(3) Each district council shall maintain a register of all the information supplied pursuant to paragraph (2).

(4) Any processing of shrimps or molluscs by cooking on board a fishing vessel shall be carried out in accordance with the requirements of—

- (a) paragraph 5 of Section I of Chapter III of Schedule 3; and
- (b) paragraph 7 of Section IV of Chapter IV of Schedule 3.

**Hygiene conditions for fishing vessels**

**22.**—(1) A food business proprietor who is operating a fishing vessel on board which fishery products which are intended for placing on the market for human consumption are handled shall ensure that the applicable provisions of Part I of Schedule 4 are complied with as respects his vessel.

(2) A food business proprietor who is operating a fishing vessel—

- (a) which is designed and equipped to preserve fishery products on board under satisfactory conditions for more than 24 hours, other than those equipped for keeping fish and shellfish alive without other means of conservation on board; and
- (b) on board which fishery products which are intended for placing on the market for human consumption are handled,

shall also ensure that the applicable provisions of Part II of Schedule 4 are complied with as respects his vessel.

- (3) Ship owners, or their representatives, who are operating a fishing vessel—
- (a) which is designed and equipped to preserve fishery products on board under satisfactory conditions for more than 24 hours, other than those equipped for keeping fish and shellfish alive without other means of conservation on board; and
  - (b) on board which fishery products which are intended for placing on the market for human consumption are handled,

shall take all the measures necessary to prevent persons liable to contaminate fishery products from working on and handling them, until there is evidence that such persons can do so without risk.

(4) The Department shall keep up-to-date for control purposes a list of the vessels equipped in accordance with paragraphs 7 and 8 of Part II of Schedule 4, with the exception however of vessels equipped with removable containers which, without prejudice to paragraph 5 of Part II of Schedule 4, are not engaged regularly in preserving fish in chilled seawater.

#### **Operation of a factory vessel or fishery products establishment without an approval**

23.—(1) No person shall operate a fishery products establishment unless it has been approved by the district council for the district in which it is situated.

(2) No person shall operate a United Kingdom, Channel Islands or Isle of Man factory vessel unless it has been approved—

- (a) by the district council for the area which includes the place at which the vessel usually lands fishery products in Northern Ireland; or
- (b) in accordance with any law in force in Great Britain, the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved in relation to the approval of factory vessels by the Fishery Products Directive.

#### **Approval of factory vessels and fishery products establishments**

24.—(1) An application for an approval for a factory vessel or fishery products establishment shall be made to—

- (a) in the case of a fishery products establishment, the district council for the district in which the establishment is situated; and
- (b) in the case of a factory vessel, the district council for the district which includes the place at which the vessel usually lands fishery products in Northern Ireland.

(2) An application pursuant to paragraph (1) shall be—

- (a) made in writing; and
- (b) accompanied by such supplementary information, documents, plans and diagrams as are necessary to enable the district council to determine the application.

(3) An approval in respect of a factory vessel may only be granted if the district council is satisfied that it meets such of the conditions set out in Chapters I and II of Schedule 3 as apply to it.

(4) An approval in respect of a fishery products establishment may only be granted if the district council is satisfied that it meets such of the conditions set out in Chapters III and IV of Schedule 3 as apply to it.

(5) An approval in respect of a factory vessel or fishery products establishment under this regulation may be granted subject to limitations as to the particular activities approved, the method of operation approved and the intensity of use approved.

(6) The district council shall give written notification to each person who makes an application pursuant to paragraph (1) of the result of the application and, in the case of refusal, of the reasons for that refusal.

- (7) If an application pursuant to paragraph (1) is granted, the district council shall—
- (a) designate the fishery products establishment or factory vessel with a unique approval number; and
  - (b) notify the Department of the granting of the approval and the number allocated under sub-paragraph (a).

### **Requirement for the registration of auction or wholesale markets**

**25.** No person shall operate an auction or wholesale market unless that market has been registered with the district council for the district in which it is situated.

### **Registration of auction and wholesale markets**

**26.—(1)** An application for registration for an auction or wholesale market shall be made to the district council for the district in which it is situated.

- (2) An application pursuant to paragraph (1) shall be—
- (a) made in writing; and
  - (b) accompanied by such supplementary information, documents, plans and diagrams as are necessary to enable the district council to determine the application.

(3) An auction or wholesale market may only be registered if the district council is satisfied that it meets such of the conditions set out in Chapters II and III of Schedule 3 as apply to it.

(4) The district council shall give written notification to each person who makes an application pursuant to paragraph (1) of the result of the application and, in the case of refusal, of the reasons for that refusal.

- (5) If an application pursuant to paragraph (1) is granted, the district council shall—
- (a) designate the market with a unique registration number; and
  - (b) notify the Department of the registration and the registration number allocated under sub-paragraph (a).

### **Appeals against decisions under this Part to refuse to register or to grant an approval or against any conditions or limitations in such approvals**

- 27.—(1)** A person who is aggrieved by a decision taken by a district council—
- (a) to refuse to grant an approval for a factory vessel or fishery products establishment;
  - (b) to impose any limitation or condition in an approval granted for a factory vessel or fishery products establishment; or
  - (c) to refuse to register an auction or wholesale market,

may appeal to a court of summary jurisdiction, and Article 37(2) to (3) of the Order shall apply in relation to such an appeal as it applies in relation to an appeal under Article 37(1)(c) of the Order.

(2) Where an appeal against a limitation as to the particular activities approved, the method of operation approved or the intensity of use approved is brought in accordance with paragraph (1) (b), the appellant may continue to operate the factory vessel or fishery products establishment free of the limitation which is being appealed against while the appeal is pending, and an appeal shall be regarded as pending for these purposes until it is finally disposed of, is struck out for want of prosecution or is withdrawn.

- (3) Where an appeal is brought in accordance with paragraph (1), the court may—
  - (a) affirm any decision to refuse to grant an approval or to register;
  - (b) grant an application for registration;
  - (c) grant an approval either in its original form or with such modifications as the court may in the circumstances think fit;
  - (d) remit the matter to the district council with the court’s opinion on it; or
  - (e) make such other order in relation to the matter as the court thinks fit.

**Obligations upon food business proprietors operating establishments and factory vessels**

**28.**—(1) A food business proprietor who is operating a fishery products establishment or United Kingdom, Channel Islands or Isle of Man factory vessel approved in either case under regulation 24 shall ensure that, as respects that establishment or vessel, the requirements of that approval are complied with.

(2) A food business proprietor who is operating a factory vessel on board which fishery products which are intended for placing on the market for human consumption are handled shall ensure that the applicable provisions of Chapters I and II of Schedule 3 are complied with as respects his vessel.

(3) A food business proprietor who is operating an establishment at which fishery products which are intended for placing on the market for human consumption are handled shall ensure that the applicable provisions of Chapters III and IV of Schedule 3 are complied with as respects his establishment.

(4) A food business proprietor who is operating a factory vessel or fishery products establishment shall carry out checks at his vessel or establishment based on the following principles—

- (a) identification of points critical to ensuring safe and hygienic production in his vessel or establishment on the basis of the manufacturing processes used, and for these purposes a critical point is any point, step or procedure at which control can be applied and a food safety hazard can be prevented, eliminated or reduced to acceptable levels;
- (b) establishment and implementation of methods for monitoring and checking such critical points;
- (c) taking samples for analysis in a laboratory which the appropriate district council considers suitable for the purpose of checking—
  - (i) cleaning and disinfection methods, and
  - (ii) compliance with the standards established by this Part,

and in deciding whether it considers a laboratory to be suitable, the appropriate district council shall have regard to any relevant guidance issued by the Department;

- (d) keeping a written record or a record registered in an indelible fashion of the preceding points which shall be made available to the appropriate district council on request, and that record shall—
  - (i) satisfy any applicable requirements of article 6.2 of the Health Checks Decision, and
  - (ii) include results of the different checks for a period going back at least 2 years,and in the course of so doing, he shall have regard to any relevant recommendations in the Annex to the Health Checks Decision.

(5) A food business proprietor to whom this regulation applies shall ensure that all staff involved in checks under paragraph (4) receive adequate training in order to participate effectively in their implementation.

(6) If the results of checks under paragraph (4) reveal a serious health risk or suggest one might exist, the food business proprietor shall immediately notify the appropriate district council of that risk or possible risk and shall confirm such notification in writing within 48 hours.

(7) In this regulation, “appropriate district council” in relation to a factory vessel means the district council for the district which includes the place at which that vessel usually lands fishery products in Northern Ireland and in relation to a fishery products establishment means the district council for the district in which that establishment is situated.

#### **Notice of arrival obligation for masters of third country vessels**

**29.** The master of a factory vessel of a third country shall, before landing any fishery products in Northern Ireland which are for placing on the market, give the district council for the district in which the place at which he intends to land those fishery products is situated notice of arrival of at least 24 hours.

#### **Obligations upon food business proprietors operating auction or wholesale markets**

**30.** A food business proprietor who is operating an auction or wholesale market at which fishery products which are intended for placing on the market for human consumption are handled shall ensure that the applicable provisions of Chapters II and III of Schedule 3 are complied with as respects his market.

#### **Variation of approvals for factory vessels or establishments**

**31.—(1)** A person may at any time apply to the district council which granted an approval under regulation 24 for it to vary any term or limitation in any approval for a factory vessel or fishery products establishment so granted to him, and the district council may vary any such term or limitation.

(2) Any person who is aggrieved by a decision of a district council to refuse to vary a term or limitation in any approval for a factory vessel or fishery products establishment may appeal to a court of summary jurisdiction, and Article 37(2) to (3) of the Order shall apply in relation to such an appeal as it applies in relation to any appeal under Article 37(1)(c) of the Order.

(3) Where an appeal is brought in accordance with paragraph (2), the court may—

- (a) affirm any decision to refuse to vary the term or limitation in the approval;
- (b) vary the term or limitation in the approval;
- (c) remit the matter to the district council with the court’s opinion on it; or
- (d) make such other order in relation to the matter as the court thinks fit.

#### **Revocation of approvals for factory vessels or establishments and cancellation of market registrations**

**32.—(1)** A district council may revoke an approval of an establishment or a factory vessel which it granted under regulation 24 if, after inspection of or any inquiry into the method of operation of the establishment or vessel, it is satisfied that—

- (a) there has been a serious (on animal or public health grounds) and manifest breach of the conditions or limitations subject to which the approval was granted or of the applicable provisions of Chapters I to IV of Schedule 3;
- (b) the food business proprietor who is operating the establishment or vessel is either unable or not prepared to ensure that the breach is remedied; and
- (c) there is in force in relation to that establishment or vessel—

- (i) a prohibition order under Article 10 of the Order, or
- (ii) an emergency prohibition order under Article 11 of the Order,

and as a consequence of the order, commercial operations with regard to fishery products which are for placing on the market for human consumption may not be carried out at that establishment or on board that vessel.

(2) A district council may cancel the registration of an auction or wholesale market granted under regulation 26 if, after inspection of or any inquiry into the method of operation of the market, it is satisfied that—

- (a) there has been a serious (on animal or public health grounds) and manifest breach of the applicable provisions of Chapter II or III of Schedule 3;
- (b) the food business proprietor who is operating the market is either unable or not prepared to ensure that the breach is remedied; and
- (c) there is in force in relation to that market—

- (i) a prohibition order under Article 10 of the Order, or
- (ii) an emergency prohibition order under Article 11 of the Order,

and as a consequence of the order, commercial operations with regard to fishery products which are for placing on the market for human consumption may not be carried out at that market.

(3) A food business proprietor who is aggrieved by a decision to revoke an approval for a factory vessel or fishery products establishment or cancel the registration of an auction or wholesale market may appeal to a court of summary jurisdiction and Article 37(2) to (3) of the Order shall apply in relation to such an appeal as it applies in relation to an appeal under Article 37(1)(c) of the Order.

(4) A revocation or cancellation under this regulation shall take effect—

- (a) after the time for appealing against it has elapsed; or
- (b) if an appeal is brought, after the appeal is finally disposed of, struck out for want of prosecution or withdrawn,

and when a district council informs a food business proprietor who is operating a factory vessel or fishery products establishment of its decision to revoke the approval for the vessel or establishment or informs a food business proprietor operating an auction or wholesale market of its decision to cancel the registration of that market, it shall explain to the proprietor in writing when the revocation or cancellation will take effect (including when it will take effect if an appeal is brought).

### **Gutting of fishery products**

**33.** Where in relation to a fishery product which is intended for placing on the market for human consumption gutting of that fishery product is possible from a technical and commercial standpoint, a food business proprietor who has control over the timing of such gutting shall ensure that it is carried out as soon as possible after the product has been caught or landed.

### **Packaging of fishery products**

**34.** A proprietor of a food business in the course of which fishery products which are intended for placing on the market for human consumption are packaged shall ensure that the packaging of such products is in accordance with the applicable requirements of those set out in Chapter VI of Schedule 3.

### **Storage and transportation of fishery products**

**35.**—(1) Subject to paragraph (2), a proprietor of a food business in the course of which fishery products which are intended for placing on the market for human consumption are stored and transported shall ensure that such products are stored and transported in accordance with any applicable requirements of those set out in Chapter VIII of Schedule 3.

(2) Paragraph (1) shall not apply where fishery products are stored at a cold store where only the handling of wrapped fishery products takes place.

### **Placing fishery products on the market**

**36.**—(1) Subject to paragraph (2), no person shall place on the market for human consumption any fishery products, unless—

- (a) if they have been handled on board a United Kingdom, Channel Islands or Isle of Man fishing vessel, the applicable requirements of—
  - (i) Schedule 4, or
  - (ii) any law in force in Great Britain, the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by the Fishing Vessels Directive, have been satisfied in relation to those fishery products;
- (b) if they have been handled on board a United Kingdom, Channel Islands or Isle of Man factory vessel, the applicable requirements of—
  - (i) Chapter I of Schedule 3, or
  - (ii) any law in force in Great Britain, the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by Chapter I of the Annex to the Fishery Products Directive, have been satisfied in relation to those fishery products;
- (c) if they were landed in the United Kingdom, the Channel Islands or the Isle of Man, during and after landing the applicable requirements of—
  - (i) Chapter II of Schedule 3, or
  - (ii) any law in force in Great Britain, the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by Chapter II of the Annex to the Fishery Products Directive, have been satisfied in relation to those fishery products;
- (d) where gutting of those fishery products is or was possible from a technical and commercial standpoint, such gutting was carried out as soon as possible after the products were caught or landed;
- (e) at an establishment on land in the United Kingdom, the Channel Islands or the Isle of Man, they have been handled and, where appropriate, packaged, prepared, processed, frozen, defrosted, stored hygienically and inspected in accordance with the applicable requirements of—
  - (i) Chapters III and IV of Schedule 3, or
  - (ii) any law in force in Great Britain, the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by Chapters III and IV of the Annex to the Fishery Products Directive;
- (f) they—

- (i) in Northern Ireland, have been subject to such of the health control and monitoring of production conditions described in Chapter V of Schedule 3 as is appropriate in the particular circumstances of the case, or
- (ii) in Great Britain, the Channel Islands or the Isle of Man, have been subject to such of the health control and monitoring of production conditions described in Chapter V of the Annex to the Fishery Products Directive, as provided for in any law in force in Great Britain, the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by that Chapter, as is appropriate in the particular circumstances of the case,

unless the competent authority authorised the transfer of those fishery products *ex quay* 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;

- (g) they have been appropriately packaged in accordance with Chapter VI of Schedule 3;
- (h) they comprise or form part of a consignment which bears an identification mark—
  - (i) unless head (ii) or (iii) applies, which is in accordance with Chapter VII of Schedule 3,
  - (ii) which, if they comprise or form part of a consignment which has been given an identification mark in accordance with any law in force in another EEA State, Great Britain, the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by Chapter VII of the Annex to the Fishery Products Directive, is in accordance with that law,
  - (iii) which, if those fishery products originate in a country in respect of which the European Commission has adopted approved import conditions for fishery products, is in accordance with those approved import conditions,

but an identification mark is not required in relation to any fishery products which have been landed in a third country in respect of which the European Commission has not adopted any approved import conditions;

- (i) except at cold stores where only the handling of packaged products takes place, they have been stored and transported in accordance with Chapter VIII of Schedule 3;
  - (j) if they are imported products, prior to importation the requirements specified in regulations 42 and 43 which are applicable to his case are satisfied in relation to those fishery products;
  - (k) any additional requirements in regulations 37 and 38 which are applicable to his case are satisfied in relation to those fishery products.
- (2) Paragraph (1)(a) to (c) shall not apply to aquaculture products.

### **Placing aquaculture products on the market**

**37.** No person shall place on the market for human consumption fishery products which are aquaculture products, unless—

- (a) they have been slaughtered under appropriate conditions of hygiene;
- (b) they have not been soiled with earth, slime or faeces;
- (c) if they were not processed immediately after being slaughtered, they have been kept chilled.



### **Placing processed shellfish on the market**

**38.**—(1) Subject to paragraphs (2) and (3), no person shall place on the market for human consumption fishery products which are processed shellfish unless, prior to processing, there were satisfied in relation to those processed shellfish those of the requirements of regulation 19 to which those products would have been subject if, when they were processed, they had instead been kept for placing on the market as live shellfish.

(2) For the purposes of paragraph (1), regulation 19 shall apply as if, where reference is made in regulation 19(1)(b) to transportation to an approved dispatch centre, reference had also been made to transportation to a processing plant, and the requirements in relation to movement documents and permanent transport authorisations set out in regulation 19(1)(b).

(3) Paragraph (1) shall not apply to imported fishery products which were processed before they were imported.

### **Fishery products to be placed on the market alive**

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

### **Prohibition on placing certain fishery products on the market**

**40.** No person shall sell, supply in the course of a food business or place on the market for human consumption—

- (a) poisonous fish of any of the following families: Tetraodontidae, Molidae, Diodontidae and Canthigasteridae; or
- (b) fishery products containing biotoxins such as ciguatera toxins or muscle-paralysing toxins.

### **Direct transfers of fishery products on local markets**

**41.**—(1) Regulations 33 to 39 shall not apply to a direct transfer to a retailer or final consumer in the United Kingdom of a small quantity of fishery products by a fisherman.

(2) For the purposes of paragraph (1), a “small quantity” means an amount which comprises part of the fisherman’s annual allowance.

(3) For the purposes of paragraph (2), a fisherman’s annual allowance is a total amount of not more than 25 tonnes of fishery products in a calendar year, and although the total amount may comprise of amounts of one or more species, in that total amount the amount of processed shellfish of any species listed in column (a) of the following Table shall not exceed the maximum amount for that species mentioned in column (b) of that Table—

TABLE

(a) <i>Species</i>	(b) <i>Maximum amount</i>
Cockles	25.0 tonnes
Oysters	5.0 tonnes
King Scallops	5.0 tonnes
Queen Scallops	10.0 tonnes
Mussels	20.0 tonnes

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(a)	(b)
<i>Species</i>	<i>Maximum amount</i>
Other Bivalve Molluscs	10.0 tonnes
Marine Gastropods	20.0 tonnes

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