

1995 No. 112

FOOD

**The Food Safety (Live Bivalve Molluscs and Other Shellfish)
(Import Conditions and Miscellaneous Amendments)
Regulations (Northern Ireland) 1995**

Made 22nd March 1995

Coming into operation 1st May 1995

The Department of Health and Social Services for Northern Ireland in exercise of the powers conferred on it by Articles 15(1) and (3), 16(1), 25(3), 26(3), 47(2) and 48(2) of, and paragraphs 2(2), 5(1) and (2), 6(1) and 7(1) of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(a), and, being a designated Department(b) for the purposes of section 2(2) of the European Communities Act 1972(c) in relation to the common agricultural policy of the European Community, in the exercise of the powers conferred on it by the said section 2(2), and of all other powers enabling it in that behalf and after consultation (so far as is required by 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 and commencement

1. These Regulations may be cited as the Food Safety (Live Bivalve Molluscs and Other Shellfish) (Import Conditions and Miscellaneous Amendments) Regulations (Northern Ireland) 1995 and shall come into operation on 1st May 1995.

Interpretation

2.—(1) In these Regulations—

“approved import conditions” means the conditions for the importation of live bivalve molluscs and other shellfish which are laid down in a Commission Decision mentioned in Schedule 1;

“aquaculture products” has the same meaning as in the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993(d);

“bivalve molluscs” has the same meaning as in the principal Regulations;

(a) S.I. 1991/762 (N.I.7). See Article 2(2) for the definitions of “regulations” and “the Department concerned”.

(b) S.I. 1972/1811.

(c) 1972 c.68; the definition of the Treaties referred to in section 2(2) was extended by section 1 of the European Economic Area Act 1993 (c. 51)

(d) S.R. 1993 No. 51

- “the Council Directive” means Council Directive 91/492/EEC of 15th July 1991, laying down the health conditions for the production and the placing on the market of live bivalve molluscs(a), as adapted for the purposes of the EEA Agreement(b);
- “consignment”, except in the expression “private consignment” has the same meaning as in the principal Regulations;
- “the Derogations Regulations” means the Food Safety (Live Bivalve Molluscs) (Derogations) Regulations (Northern Ireland) 1992(c);
- “designated bivalve production area” has the same meaning as in the principal Regulations;
- “dispatch centre” has the same meaning as in the principal Regulations;
- “EEA Agreement” means the Agreement on the European Economic Area signed in Oporto on 2nd May 1992(d), as adjusted by the Protocol signed in Brussels on 17th March 1993(e);
- “EEA State” means a State which is a Contracting Party to the EEA Agreement, but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein(f);
- “import” means import into Northern Ireland, but only if the product in question is not imported from another part of the United Kingdom, the Channel Islands or the Isle of Man;
- “the Import and Export Regulations” means the Products of Animal Origin (Import and Export) Regulations (Northern Ireland) 1993(g);
- “other shellfish” has the same meaning as in the principal Regulations;
- “the principal Regulations” means the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations (Northern Ireland) 1993(h);
- “private consignment” means a quantity of live bivalve molluscs or other shellfish which are—
- (a) imported as trade samples; or
 - (b) not being imported by way of trade, and which—
 - (i) form part of a traveller’s personal luggage, or
 - (ii) have been sent to an individual in Northern Ireland;
- “production area” has the same meaning as in the principal Regulations;
- “purification centre” has the same meaning as in the principal Regulations;

(a) OJ No. L 268, 24.9.91, p.1

(b) See paragraph 25 of the basic texts in Annex 1 to the EEA Agreement

(c) S.R.1992 No. 295

(d) OJ No. L 1, 3.1.94, p. 3

(e) OJ No. L 1, 3.1.94, p. 572

(f) See article 1(2) of the Protocol Adjusting the Agreement on the European Economic Area

(g) S.R. 1993 No. 304

(h) 1993 No. 52

“relaying” has the same meaning as in the principal Regulations;

“relaying area” has the same meaning as in the principal Regulations;

“the Reference Laboratories Decision” means Council Decision 93/383/EEC on reference laboratories for the monitoring of marine biotoxins(a);

“third country” means any country or territory which is not part of the European Economic Area including, until the EEA Agreement comes into force in relation to Liechtenstein, the State of Liechtenstein.

(2) In these Regulations, a reference to a numbered Chapter is to the Chapter in the Annex to the Council Directive bearing that number.

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

General restriction on importing live bivalve molluscs or other shellfish

3.—(1) Subject to paragraph (2), no person shall import any live bivalve molluscs or other shellfish which are for human consumption, unless (without prejudice to any restrictions imposed under the Fish Health Regulations (Northern Ireland) 1993(c) or the Risk of Infection (Oysters) Order (Northern Ireland) 1993(d))—

(a) they are products in respect of which—

(i) unless head (ii) applies, all applicable requirements of the Council Directive (allowing for any derogations which have been granted from the conditions set out in the Council Directive) and the Reference Laboratories Decision are satisfied, or

(ii) if they originate in a third country(e), the requirements specified in Schedule 2 are satisfied; and

(b) any additional conditions imposed under regulation 4 are satisfied.

(2) Paragraph (1) shall not apply to a person importing a private consignment —

(a) from a country or territory within the European Community unless that consignment is a consignment of trade samples which weighs more than 10 kilograms; or

(b) from any other country or territory if that consignment weighs 1 kilogram or less.

Additional conditions in relation to certain third country imports

4.—(1) Subject to paragraph (3), no person shall import any live bivalve molluscs or other shellfish which are for human consumption—

(a) from a third country;

(a) OJ No. L 166, 8.7.93, p. 31

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

(c) S.R. 1993 No. 3062

(d) S.R. & O (N.I.) 1973 No. 392

(e) See Council Regulation (EEC) No. 802/68 on the Common Definition of the Concept of the Origin of Goods, and protocol 4 to the EEA Agreement as amended by the Decision of the EEA Joint Committee No. 6/94 amending protocol 4 to the EEA Agreement, on rules of origin (OJ No. L95, 14.4.94, p. 22)

- (b) from a country or territory within the European Community if those live bivalve molluscs or other shellfish do not originate from within the European Economic Area, unless those products were in free circulation in that country or territory within the European Community;
- (c) from an EEA State which is not also a member State, unless those live bivalve molluscs or other shellfish originate from within the European Economic Area,

unless the conditions in paragraph (2) are satisfied in relation to those live bivalve molluscs or other shellfish which he imports.

(2) The conditions referred to in paragraph (1) are that—

(a) except in the circumstances set out in sub-paragraph (b), the live bivalve molluscs or other shellfish comprise or are part of a consignment which is accompanied by a duly completed certificate which—

- (i) comprises a single sheet,
- (ii) is drawn up in English and, where appropriate, in an official language of a country or territory for which those live bivalve molluscs or other shellfish are destined,
- (iii) contains the information mentioned in the specimen health certificate set out in Schedule 3, and
- (iv) contains the health attestation mentioned in that certificate, duly signed and dated by an official inspector duly appointed by the competent authority of the state of origin of those bivalve molluscs or other shellfish;

(b) a person importing live bivalve molluscs or other shellfish in circumstances where—

- (i) those live bivalve molluscs or other shellfish originate in a third country in respect of which the European Commission has adopted approved import conditions, and
- (ii) those approved import conditions relate to those live bivalve molluscs or other shellfish;

shall import those live bivalve molluscs or other shellfish in accordance with those approved import conditions.

(3) Paragraph (1) shall not apply to a person importing a private consignment, if that consignment weighs 1 kilogram or less.

Amendment of the principal Regulations

5. The amendments to the principal Regulations set out in Schedule 4 shall have effect.

Enforcement and penalties

6. For the purposes of the Import and Export Regulations—

- (a) the requirements set out in regulations 3 and 4 shall be treated as animal and public health requirements; and

- (b) those requirements shall be enforced as animal and public health requirements—
- (i) by a district council or the Department of Agriculture for Northern Ireland, whichever has the responsibility under the Import and Export Regulations for enforcing animal and public health requirements in the particular circumstances of the case,
 - (ii) in accordance with the procedures set out in the Import and Export Regulations, and
 - (iii) subject to the penalties and other sanctions set out in the Import and Export Regulations.

Transitional provision

7. Regulation 4(2)(a) shall not apply in relation to any live bivalve molluscs or other shellfish which left their country of origin before 1st August 1995.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 22nd March 1995.

(L.S.)

D. A. Baker

Assistant Secretary

Approved Import Conditions

1. Commission Decision 93/387/EEC laying down special conditions for the import of live bivalve molluscs, echinoderms, tunicates and marine gastropods originating in Morocco(a), as amended by Commission decision 93/530/EEC(b).

(a) OJ No. L 166, 8.7.93, p. 40

(b) OJ No. L 258, 16.10.93, p. 32

Specified Health Conditions

(Based on Articles 3 and 8 of the Council Directive)

1.—(1) Subject to sub-paragraph (2), bivalve molluscs shall originate from a bivalve production area which, if that production area were in the sea adjacent to Northern Ireland and within British fishery limits(a), would be designated as a Class A, Class B or Class C area, and any condition or limitation set out in Schedule 3 to the principal Regulations which relates to the class of area which the production area would be designated shall have been complied with.

(2) Sub-paragraph (1) shall not apply to pectinidae which are not aquaculture products.

2. Bivalve molluscs shall—

- (a) unless harvested from a natural deposit, have been cultivated at, and
- (b) have been harvested from,

a production area under conditions at least as stringent as those governing the harvesting of bivalve molluscs in Northern Ireland, including any relevant conditions in respect of relaying bivalve molluscs and of harvesting bivalve molluscs from a relaying area.

3. Other shellfish shall—

- (a) unless harvested from a natural deposit, have been cultivated at, and
- (b) have been harvested from,

an area which is not unsuitable for the cultivation or harvesting of other shellfish.

4. Bivalve molluscs or other shellfish shall have been transported from their production or harvesting area to any relaying area, dispatch centre or (except in relation to other shellfish) purification centre which they thereafter pass through in accordance with transportation requirements which are at least as stringent as those contained in Chapter II.

5. Bivalve molluscs or other shellfish shall—

- (a) have been handled hygienically;
- (b) if they are bivalve molluscs, where appropriate, have been purified or subject to intensive purification at a purification centre which is governed by requirements at least as stringent as those governing purification centres approved in accordance with the principal Regulations and in respect of which there has been no derogation under the Derogations Regulations; and
- (c) have been packed in sealed packages at a dispatch centre which is governed by requirements at least as stringent as those governing dispatch centres which have been approved in accordance with the principal Regulations and in respect of which there has been no derogation under the Derogations Regulations.

(a) See Section 1(5) and 10(2)(b) of the Fishery Limits Act 1976 (c. 86)

6. Bivalve molluscs or other shellfish shall have been the subject of a public health control system which is at least as stringent as the system set out in Chapter VI and in the Reference Laboratories Decision.

7. Bivalve molluscs or other shellfish shall be wrapped in accordance with conditions which are at least as stringent as those contained in Chapter VII.

8. Bivalve molluscs or other shellfish shall have been stored and transported under satisfactory conditions of hygiene, and in particular in accordance with conditions which are at least as stringent as those contained in Chapters VIII and IX.

9. Bivalve molluscs or other shellfish which are—

(a) intended for immediate human consumption shall be as specified in Chapter V;

(b) not intended for immediate human consumption shall be destined—

(i) if they are bivalve molluscs, for relaying at a specified relaying area or purification at a specified purification centre, or

(ii) for processing at a specified processing establishment,

and for the purposes of this sub-paragraph, “specified” means specified in the certificate accompanying those bivalve molluscs or other shellfish by virtue of regulation 4(2).

Specimen Health Certificate

**Third Country Imports of Live Bivalve Molluscs, Echinoderms, Tunicates
and Marine Gastropods**

Reference No:

Country of Dispatch:

Competent authority for that country:

I Details identifying the products

- 1. Description of species
(scientific name).....
- 2. Nature/type of packaging.....
- 3. Number of packages
- 4. Net weight (kilograms)

II. Origin of products

- 1. Production and/or harvesting area(s), together with any official approval number
.....
.....
.....
- 2. Name(s), address(es) and any official approval number(s) of any purification
centre(s) or dispatch centre(s) which the product has passed through.
.....
.....
.....

III. Destination of products

The products are dispatched—

from.
(place of dispatch)

to.....
(country and place of destination)

for *relaying/purification/processing/placing on the market. (*delete as applicable)
by the following means of transport.

Name and address of consignor

.....

.....

Name of consignee and address at place of destination.

.....

.....

IV. Health attestation

The undersigned official inspector, being duly appointed in that function by the competent authority of the state of origin of the products specified, hereby certifies that the live products specified above:—

1. Where they are not—

- (a) pectinidae which are not aquaculture products, or
- (b) echinoderms, tunicates, or marine gastropods,

originate from production areas which comply with requirements at least as stringent as those laid down in Chapter I of the Annex to Council Directive 91/492/EEC;

2. Have been harvested, handled, where necessary relaid, where necessary purified, prepared, checked, packaged, kept and transported in accordance with health rules at least as stringent as those laid down in Chapters II to IV and VI to IX of the Annex to Council Directive 91/492/EEC; and

3. Are—

- (a) * intended for placing on the market and are therefore as specified in Chapter V of the Annex to Council Directive 91/492/EEC,
 - (b) * if live bivalve molluscs, intended for relaying at the relaying area or purification at the purification centre specified in point III, or
 - (c) * intended for processing at the establishment specified in point III.
- (* delete as appropriate)

.....

(official stamp)

Signature of Official Inspector.....

Names in capitals, capacity and qualifications of person signing

.....

Signed at:.....

(place of signing)

On.....

(date of signing)

Amendments to the Principal Regulations

1.—(1) In regulation 1(2) (interpretation)—

(a) before the definition of “batch” there shall be inserted—

“ “approved import conditions” has the same meaning as in the Import Conditions Regulations;

“aquaculture products” has the same meaning as in the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993(a);”;

(b) in the definition of “the Council Directive”, after “bivalve molluscs” there shall be inserted “, as adapted for the purposes of the EEA Agreement(b)”;

(c) after the definition of “dispatch centre” there shall be inserted—

“ “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(c) as adjusted by the Protocol signed at Brussels on 17th March 1993(d);

“EEA State” means a State which is a Contracting Party to the EEA Agreement, but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein(e)”;

(d) after the definition of “gatherer” there shall be inserted the following definition—

“ “the Great Britain Regulations” means the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992(f);”;

(e) for the definition of “healthmark” there shall be substituted—

“ “healthmark” means a healthmark which (as the context requires) is in accordance with—

(a) Schedule 1;

(b) Schedule 1 to the Great Britain Regulations;

(c) any law of another EEA State, the Isle of Man or the Channel Islands which is intended to give effect to the results to be achieved by Chapter X, in so far as it applies to those territories; or

(d) any approved import conditions;”;

(f) after the definition of “healthmark” there shall be inserted—

“ “the Import Conditions Regulations” means the Food Safety (Live Bivalve Molluscs and Other Shellfish) (Import Conditions and Miscellaneous Amendments) Regulations (Northern Ireland) 1995;

“imported” means imported into Northern Ireland, but only if the product in question was not imported from another part of the United Kingdom, the Channel Islands or the Isle of Man;”;

(g) for the definition of “movement document” there shall be substituted—

“ “movement document” means—

(a) in relation to any batch transported from a production area to—

(a) S.R. 1993 No. 51

(b) See paragraph 25 of the basic texts in Annex 1 to the EEA Agreement

(c) OJ No. L1, 3.1.94, p. 3

(d) OJ No. L1, 3.1.94, p. 572

(e) See article 1(2) of the Protocol adjusting the Agreement on the European Economic Area

(f) SI 1992/3164

- (i) an approved relaying area in Northern Ireland, or
- (ii) a dispatch or purification centre approved in accordance with these Regulations,

a movement document which meets the requirements of paragraph 6(4) and (5) of Schedule 2;

- (b) in relation to any batch transported from a production area to—
 - (i) an approved relaying area in Great Britain, or
 - (ii) a dispatch or purification centre approved in accordance with the Great Britain Regulations,

a movement document which meets the requirements of paragraph 6(4) and (5) of Schedule 2 to the Great Britain Regulations;

- (c) in relation to any batch transported from a production area to—
 - (i) an approved relaying area in the Channel Islands or the Isle of Man, or
 - (ii) a dispatch or purification centre approved in accordance with any law passed by the legislature of any of 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 dispatch and purification centres by the Council Directive in so far as it applies to those islands,

a movement document which meets the requirements of any law passed by the legislature of any of the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by paragraph 6 of Chapter II in so far as it applies to those islands;”;

- (h) for the definition of “permanent transport authorisation” there shall be substituted—

“permanent transport authorisation “means a written authorisation which has been—

- (a) issued by a district council and which meets the requirements of paragraph 6(8) of Schedule 2;
- (b) issued by a food authority in Great Britain and which meets the requirements of paragraph 6(8) of Schedule 2 to the Great Britain Regulations; or
- (c) granted by a competent authority in the Channel Islands or the Isle of Man and which meets the requirements of any law passed by the legislature of any of the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by the final unnumbered paragraph of paragraph 6 of Chapter II in so far as it applies to those islands;”;

- (i) after the definition of “purification centre” there shall be inserted—

“ “registered market” means a market registered pursuant to an application made under regulation 12 of the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993;”.

(2) In regulation 1(4)(b), after “authority in” there shall be inserted “paragraph 5 of Section II.”.

- (3) After regulation 1(4) there shall be inserted—

“(5) A reference to a numbered Chapter is a reference to the Chapter in the Annex to the Council Directive bearing that number.”.

2. In paragraph (2) of regulation 2 (designation of certain areas), for sub-paragraph (a) there shall be substituted—

“(a) fulfils the conditions required for designation as a Class A or B area specified in sub-paragraphs (a) and (b) of paragraph (1); and”.

3.—(1) In regulation 6 (approval of dispatch centres and purification centres)—

(a) in paragraph (1), after “area the dispatch centre” there shall be inserted “or purification centre”; and

(b) in paragraph 2(b) for “Parts” there shall be substituted “Sections”.

(2) For regulation 6(4) there shall be substituted—

“(4) An approval in respect of a dispatch centre may only be granted if the district council is satisfied that it meets such of the conditions set out in Sections I, II and IV of the Schedule to the Derogations Regulations as apply to it, save in so far as—

(a) there is in force in respect of that centre a derogation; and

(b) the terms on which that derogation was granted are complied with.

(4A) An approval in respect of a purification centre may only be granted if the district council is satisfied that it meets such of the conditions specified in Sections I, II and III of the Schedule to the Derogations Regulations as apply to it, save in so far as—

(a) there is in force in respect of that centre any derogation; and

(b) the terms on which that derogation was granted are complied with,

and that it meets any additional conditions of which the district council has been notified by the Department pursuant to paragraph (5).”.

4. In paragraph (3) of regulation 8 (supplementary provisions about approvals), after “of any approval” there shall be inserted “granted to him, and the district council may vary any such terms or limitations”.

5.—(1) In paragraph (1) of regulation 9 (restriction on the operation of dispatch and purification centres), from “approval, of” to “any applicable derogation” there shall be substituted “approval and the applicable provisions of the Schedule to the Derogations Regulations (allowing for any applicable derogations)”.

(2) For regulation 9(2) there shall be substituted—

“(2) The proprietor of each dispatch centre or purification centre shall ensure that—

(a) the requirements of the approval and the applicable provisions of the Schedule to the Derogations Regulations (allowing for any applicable derogations) are complied with;

(b) representative numbers of samples for laboratory examination are regularly taken and analysed in laboratories which meet the requirements of the Schedule to the Derogations Regulations; and

(c) the results of the laboratory examinations referred to in sub-paragraph (b) are recorded in an historical record which, in relation to each area from which the live bivalve molluscs or other shellfish come, gives details of the health quality of the live bivalve molluscs and other shellfish from that area both before and after handling at the centre.”.

6. For regulation 10 (restrictions on marketing of molluscs and shellfish) there shall be substituted—

“Placing live bivalve molluscs and other shellfish on the market

10.—(1) Subject to paragraphs (2) to (5), no person shall place on the market for immediate human consumption any live bivalve molluscs or other shellfish, unless—

- (a) they originate from a bivalve production area which—
 - (i) has been designated as a Class A area, a Class B area or a Class C area in accordance with regulation 2(1) and any condition or limitation specified in Schedule 3 in relation to that class of area has been complied with,
 - (ii) has been designated as a Class A area, a Class B area or a Class C area in accordance with regulation 3(1) of the Great Britain Regulations, and any condition or limitation specified in Schedule 3 to those Regulations in relation to that class of area has been complied with,
 - (iii) has been identified, pursuant to any law passed by the legislature of any of the Channel Islands or of the Isle of Man which is intended to give effect to the results to be achieved by Chapter I, in so far as it applies to those islands as an area from which bivalve molluscs may be collected, and any condition or limitation derived from that Chapter which relates to that production area has been complied with, or
 - (iv) if they are imported for relaying, was of at least the same standard as an area designated as a Class B area or a Class C area in accordance with regulation 2 (1)(b) or (c), and any condition or limitation specified in Schedule 3 in relation to the class of area which would be applicable for that production area has been complied with;
- (b) they have been harvested, kept and transported to any approved dispatch centre, approved purification centre or approved relaying area to which they are thereafter transferred in accordance with the requirements of—
 - (i) Schedule 2,
 - (ii) Schedule 2 to the Great Britain Regulations, or
 - (iii) any law passed by the legislature of any of the Channel Islands or of the Isle of Man which is intended to give effect to the results to be achieved by Chapter II, in so far as it applies to those islands
and they are accompanied by a valid movement document or a valid permanent transport authorisation;
- (c) they have, where necessary, been relaid in accordance with—
 - (i) Schedule 4,
 - (ii) Schedule 4 to the Great Britain Regulations, or
 - (iii) any law passed by the legislature of any of the Channel Islands or of the Isle of Man which is intended to give effect to the results to be achieved by Chapter III, in so far as it applies to those islands;
- (d) they have, where appropriate, been purified or subject to intensive purification at a purification centre which has been approved in accordance with—
 - (i) these Regulations,
 - (ii) the Great Britain Regulations,

- (iii) any law passed by the legislature of any of 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 purification centres by the Council Directive, in so far as it applies to those islands;
- (e) they are as specified in Schedule 5;
- (f) any wrapping is in accordance with Schedule 6;
- (g) they have been stored and transported under satisfactory conditions of hygiene and in particular in accordance with the requirements specified in Schedule 7;
- (h) they comprise or form part of a consignment which bears a healthmark—
- (i) unless head (ii), (iii) or (iv) applies, which is in accordance with Schedule 1,
 - (ii) which, if they comprise or form part of a consignment which has been given a healthmark in accordance with Schedule 1 to the Great Britain Regulations, is in accordance with that Schedule,
 - (iii) which, if they comprise or form part of a consignment which has been given a healthmark in accordance with any law of another EEA State, the Channel Islands or the Isle of Man, and that law is intended to give effect to the results to be achieved by Chapter X, in so far as it applies to those territories is in accordance with that law,
 - (iv) which, if they comprise or form part of a consignment from a country in respect of which the European Commission has adopted approved import conditions, is in accordance with those approved import conditions, but a healthmark is not required in relation to live bivalve molluscs or other shellfish which originate from a third country in respect of which the European Commission has not adopted approved import conditions, unless those live bivalve molluscs or other shellfish have been repackaged in accordance with paragraph 3 of Schedule 6;
- (i) they have been handled hygienically; and
- (j) if they are imported live bivalve molluscs or other shellfish, prior to importation such of the requirements specified in regulations 3 and 4 of the Import Conditions Regulations as are applicable to his case are satisfied in relation to those live bivalve molluscs or other shellfish which he places on the market.
- (2) Sub-paragraph (a) of paragraph (1) shall not apply to—
- (a) pectinidae which are not aquaculture products; or
 - (b) any imported live bivalve molluscs, unless they were taken from sea waters or brackish waters within British fishery limits(a).
- (3) Sub-paragraphs (b) and (c) of paragraph (1) shall not apply to imported live bivalve molluscs or other shellfish, unless their country of dispatch is part of the United Kingdom, the Channel Islands or the Isle of Man.
- (4) Sub-paragraphs (a), (c) and (d) of paragraph (1) shall not apply to other shellfish, and sub-paragraph (b) of paragraph (1) shall only apply to other shellfish in so far as it relates to harvesting and transportation to an approved dispatch centre.
- (5) Heads (ii) to (iv) of paragraph (1)(h) shall not apply in circumstances where, in Northern Ireland, a person repackages live bivalve molluscs or other

(a) See section 1(5) and 10(2)(b) of the Fishery Limits Act 1976 (c. 86)

shellfish from a country or territory other than Northern Ireland in accordance with paragraph 3 of Schedule 6.”.

7. After regulation 10 there shall be inserted—

“Splitting consignments of live bivalve molluscs or other shellfish

10A.—(1) A person other than the final consumer who splits the contents of a consignment of live bivalve molluscs or other shellfish which are not wrapped in individual consumer-sized parcels shall keep—

- (a) any healthmark which was attached to the consignment; or
- (b) a copy of any certificate required in accordance with regulation 4(2)(a) of the Import Conditions Regulations which accompanied that consignment,

for a period of not less than 60 days from the date of the splitting of the contents of that consignment.

(2) A person who repackages a consignment of live bivalve molluscs or other shellfish in accordance with paragraph 3 of Schedule 6 shall keep the original healthmark (if one was required) which was attached to the consignment for a period of not less than 60 days from the date of the splitting of the contents of that consignment.”.

8.—(1) In paragraph (1) of regulation 11 (exemptions for marketing molluscs and other shellfish within UK) for “regulation 10(1)(f) and (h) and 2(a)” there shall be substituted “regulation 10(1)(b), (f) and (h)”.

(2) In regulation 11(3), from “For the purpose” to “in that table” there shall be substituted “For the purposes of paragraph (1), a “small quantity” means a total amount not exceeding 25 tonnes in a calendar year, and although the total amount may be comprised of one or more species, in that total amount the amount of any of the species listed in column (a) of the table in this paragraph shall not exceed the maximum amount for that species mentioned in column (b) of that table”.

9.—(1) In paragraph (1) of regulation 13 (monitoring by the Department and district councils), before “The Department” there shall be inserted “Subject to paragraph (2)(b),”.

(2) For regulation 13(2) there shall be substituted—

“(2) Each district council shall perform—

- (a) the functions specified in paragraph 2 of Schedule 9; and
- (b) any function of the Department specified in paragraph 1 of Schedule 9 which the Department requires the district council to undertake on its behalf.”.

10. Regulation 14 (imports) shall be omitted.

11. In paragraph (2) of regulation 17 (offences and penalties), for “9 and 10”, there shall be substituted “9, 10 and 10A”.

12.—(1) In paragraph (1) of regulation 18 (application of provisions of the Order), sub-paragraph (e) shall be omitted.

(2) After regulation 18(2) there shall be inserted—

“(2A) Article 33 of the Order (powers of entry) shall apply for the purposes of these Regulations as though—

(a) any reference to premises included a reference to a vessel used for transporting live bivalve molluscs or other shellfish, or to a dispatch or purification centre (in so far as it does not already do so(a)); and

(b) any reference to the occupier included a reference to the person in charge of the vessel used for transporting live molluscs or other shellfish or of the dispatch or purification centre (in so far as it does not already do so).”

(3) After regulation 18(3) there shall be inserted—

“(4) Article 2(6) of the Order shall apply for the purposes of these Regulations as it applies for the purposes of the Order.”

13.—(1) In paragraph 1 of Schedule 1 (marking of consignments), before “All parcels in a consignment”, there shall be inserted “Without prejudice to the requirements of the Food Labelling Regulations (Northern Ireland) 1984(b) and subject to paragraph 4,”.

(2) After paragraph 3 of Schedule 1 there shall be inserted—

“4. Where a person repackages any live bivalve molluscs or other shellfish in accordance with paragraph 3 of Schedule 6, the healthmark provided on the new wrapping shall be in the form set out in paragraph 1, except that it shall also contain—

(a) if the live bivalve molluscs or other shellfish originate—

(i) in the European Economic Area or in a third country in respect of which the European Commission has adopted approved import conditions, the approval number of the original dispatch centre, or

(ii) in a third country in respect of which the European Commission has not adopted approved import conditions, the original dispatch details; and

(b) if the consignment was unwrapped—

(i) at a registered market, the registration number of the market where the consignment was unwrapped, or

(ii) elsewhere than at a registered market, the full name and address of the person repackaging the consignment.”

14. In paragraph 3 of Schedule 6 (wrapping)—

(a) for sub-paragraph (c) there shall be substituted—

“(c) a healthmark is provided on the new packaging which is in accordance with Schedule 1.”; and

(b) sub-paragraph (d) shall be omitted.

15. In Schedule 9 (public health control and monitoring of production) in paragraph 1(b), for “chemical” there shall be substituted “chemical or microbiological”.

(a) See the definition of “premises” in Article 2(2) of the Food Safety (N.I.) Order 1991

(b) S.R. 1984 No. 407; the relevant amending Regulations are S.R. 1985 No. 120, S.R. 1987 No. 38, S.R. 1988 No. 23 and 433, S.R. 1989 No. 229, S.R. 1990 No. 103 and 440, and S.R. 1991 No. 203 and 216

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations create import conditions for live bivalve molluscs and other shellfish which are imported into Northern Ireland, other than those which are imported from Great Britain, the Channel Islands or the Isle of Man. In the process of so doing, they implement the remaining parts of Council Directive 91/492/EEC laying down the health conditions for the production and placing on the market of live bivalve molluscs which were not implemented by the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations (Northern Ireland) 1993 ("the principal Regulations"). These Regulations also implement Council Decision 93/383/EEC on reference laboratories for the monitoring of biotoxins, in relation to imported live bivalve molluscs and other shellfish only, as this Decision does not require legislation for its implementation in relation to domestic live bivalve molluscs and other shellfish.

Regulation 2 is an interpretation provision. Regulation 3 sets out the conditions under which all live bivalve molluscs and other shellfish must be imported into Northern Ireland, other than imports from Great Britain, the Channel Islands or the Isle of Man. There are, however, exemptions in relation to private consignments. There are also certain additional requirements in relation to imports of live bivalve molluscs and other shellfish which originate from outside the European Economic Area, and these are contained in regulation 4. These additional requirements include compliance with any approved import conditions which have been agreed by the European Commission with particular non-EEA countries, and reference is made to the only approved import conditions thus far - they relate to Morocco - in Schedule 1. Where no approved import conditions have been agreed, alternative documentary requirements have to be met, and a specimen certificate is set out in Schedule 3.

Regulation 5 and Schedule 4 make various amendments to the principal Regulations. These amendments include a number of technical changes which correct minor errors in the principal Regulations, but there are also some other, more substantive changes. These include: clarification of which areas may be approved as relaying areas; a new power conferred on district councils which allows them to vary the terms of approvals granted for purification or dispatch centres; some new sample analysis requirements; and new powers which enables the Department to undertake some microbiological testing, and to require district councils to carry out certain of its functions.

The placing on the market provision in the principal Regulations, regulation 10, has been completely revised so as to accommodate both the new import conditions and products coming from Great Britain, the Channel Islands or the Isle of Man. A new regulation 10A has been added which deals with retention of documents following the splitting or repackaging of consignments, with related amendments being made to Schedules 1 and 6 of

the principal Regulations. The application of the principal Regulations is now extended to the territorial waters of the United Kingdom, and a power of entry is conferred both in relation to vessels used for transporting live bivalve molluscs and other shellfish and in relation to off-shore dispatch and purification centres.

Regulation 6 stipulates that the import conditions contained in regulations 3 and 4 are to be enforced as public and animal health requirements in accordance with the Products of Animal Origin (Import and Export) Regulations (Northern Ireland) 1993, and regulation 7 contains a transitional provision in relation to documentary requirements.