
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 499

FOOD

Imported Food Regulations (Northern Ireland) 1997

Made - - - - *14th November 1997*

Coming into operation *1st January 1998*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1), 16(1), 17(1)(c), 25(2)(e) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991⁽¹⁾ and of all other powers enabling it in that behalf and after consultation in accordance with 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 Imported Food Regulations (Northern Ireland) 1997 and shall come into operation on 1st January 1998.

Interpretation

2.—(1) In these Regulations—

“British Islands” means the United Kingdom, the Channel Islands and the Isle of Man;

“examination”, with regard to the examination of food by an authorised officer, may include a physical, chemical and microbiological examination of the food;

“exempt product of animal origin” means any of the products mentioned in Schedule 1;

“fishery products” has the same meaning as in the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993⁽²⁾;

“food authority” has the same meaning as in the Imported Food Regulations 1997⁽³⁾;

“free circulation” has the same meaning as in Article 9.2 of the Treaty establishing the European Community;

“the General Food Hygiene Regulations” means the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995⁽⁴⁾;

(1) S.I.1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12). See Article 2(2) for the definitions of “the Department concerned” and “regulations”

(2) S.R. 1993 No. 51; the relevant amending Regulations are S.R. 1995 No. 113

(3) S.I. 1997/2537

(4) S.R. 1995 No. 360

“meat preparation”, “meat product” “mechanically recovered meat” and “minced meat” have the same meaning as in the Minced Meat and Meat Preparations (Hygiene) Regulations (Northern Ireland) 1997⁽⁵⁾;

“milk” means milk of a cow, sheep, goat or buffalo;

“officer of Customs and Excise” means—

- (a) a person commissioned by the Commissioners of Customs and Excise; or
- (b) any other person acting under the authority of the Commissioners of Customs and Excise who is authorised by them to perform the duties to be performed by an officer of Customs and Excise set out in these Regulations;

“the Order” means the Food Safety (Northern Ireland) Order 1991;

“third country” means any country or territory which is not part of the customs territory of the European Community.

Scope of the Regulations

3.—(1) These Regulations do not apply in relation to the importation of any food which is an exempt product of animal origin.

(2) For the purposes of these Regulations, food is from a third country if it originates⁽⁶⁾ in that country and—

- (a) unless sub-paragraph (b) applies, when it arrives in Northern Ireland it is not in free circulation in member States;
- (b) it arrives in Northern Ireland from another part of the British Islands, having been—
 - (i) under customs charge in that part of the British Islands, and
 - (ii) sent to a place of destination in Northern Ireland for examination under these Regulations,

and when it first arrived in the British Islands it was not in free circulation in member States.

(3) For the purposes of these Regulations, a person is a person importing food from a third country if, whether as owner, consignor, consignee, agent or broker—

- (a) he is in possession of food being imported from a third country; or
- (b) he is in any way entitled to the custody or control of food being imported from a third country.

Prohibition on importing certain food from third countries

4. No person shall import into Northern Ireland from a third country any food intended for sale for human consumption which—

- (a) fails to comply with food safety requirements, or
- (b) is unsound or unwholesome.

Enforcement

5.—(1) Subject to paragraphs (2), (3) and (5), each district council shall enforce and execute these Regulations within its district.

⁽⁵⁾ [S.R. 1997 No. 495](#)

⁽⁶⁾ *See* Council Regulation (EEC) No. 2193/92 establishing the Community Customs Code (O.J. No. L302, 19.10.92, p. 1), Title II, Chapter 2 (Origin of Goods)

(2) Where—

- (a) food from a third country is entered into the British Islands at a part of Northern Ireland which is in the district of a particular district council (“the first district”) and it has a final place of destination in another district in Northern Ireland (“the second district”);
- (b) customs examination of that food has been completed or deferred until it reaches its final place of destination;
- (c) an authorised officer of the first district considers it reasonable that examination of the food should be deferred until it arrives at the second district; and
- (d) a person importing the food gives that authorised officer an undertaking in writing that the container containing the food has been sealed and will not be opened until it reaches the second district and is available there for examination under these Regulations,

the second district shall become responsible for enforcing and executing these Regulations with respect to that food when it arrives at the second district.

(3) Where—

- (a) food from a third country is entered into the British Islands at a part of Northern Ireland which is in the district of a particular district council (“the district”) and it has a final place of destination in Great Britain;
- (b) customs examination of that food has been completed or has been deferred until it reaches its final place of destination;
- (c) an authorised officer of the district considers it reasonable that examination of the food should not take place under these Regulations;
- (d) a person importing the food gives that authorised officer an undertaking in writing that the container containing the food has been sealed and will not be opened until it reaches its specified place of destination in Great Britain and is available there for examination under the Imported Food Regulations 1997,

the authorised officer of the district shall authorise the transfer of the food to its specified place of destination in Great Britain for examination under the Imported Food Regulations 1997.

(4) Where an authorised officer authorises the transfer of any food to another district in Northern Ireland or, as the case may be, to Great Britain for examination at the place of destination for that food he shall—

- (a) notify by the most expeditious means available the district council or, in Great Britain the food authority, for the area in which that place is located—
 - (i) that the food (so described as to enable it to be identified) has not been examined under these Regulations, and
 - (ii) if customs examination of the food has been deferred, of that fact; and
- (b) send that council or authority a copy of the undertaking in writing, referred to in paragraphs (2)(d) and 3(d), which he has been given by a person importing the food.

(5) Where food has been sent to a place of destination in Northern Ireland for examination under these Regulations from another part of the British Islands, the district council for the district in which that place of destination is located shall become responsible for enforcing and executing these Regulations with respect to that food once it arrives in Northern Ireland.

Examination of food by a district council

6.—(1) Where an authorised officer is of the opinion that he should examine for the purposes of these Regulations a batch, lot or consignment of food which is in or due to arrive in the district of

his district council, any person importing the food shall provide all such facilities as the authorised officer may reasonably require for the examination of the food.

(2) An authorised officer who considers that a sample of any food which he proposes to examine or is examining for the purposes of these Regulations should be procured may, by a notice in writing given to—

- (a) any person importing the food; or
- (b) any other person in possession of the food who is entitled to be in possession of it (other than an officer of Customs and Excise),

require that, once he has procured the sample, the food shall not be removed from the place specified in the notice for a specified period not exceeding six days exclusive of Saturdays, Sundays and public holidays, unless the authorised officer's examination of the food (a process which may include submitting a sample of the food to be analysed by a public analyst or examined by a food examiner) has been completed.

(3) After a notice has been given to a person under paragraph (2) forbidding the removal of specified food, an authorised officer of the district council responsible for the notice shall, without undue delay and in any event within the period specified in the notice, complete the examination of the food in respect of which the notice was given.

(4) Where an authorised officer has given a person a notice under paragraph (2) forbidding the removal of specified food, that food shall not, prior to the completion of the examination of it by an authorised officer, be removed by any person contrary to the terms of the notice except with the express written permission of—

- (a) an authorised officer of the district council which is responsible for the notice; or
- (b) if the food is under customs charge, an officer of Customs and Excise.

(5) An officer of Customs and Excise shall, before giving any person written permission to remove any food which is the subject of a notice under paragraph (2), inform an authorised officer of the district council responsible for the notice of his intention to do so.

(6) Any person who is aggrieved by a decision to serve a notice under paragraph (2) may appeal against that notice to a court of summary jurisdiction which may order that the notice be withdrawn or that such shorter period be fixed for examination of the food as appears to be reasonable in the circumstances.

Re-export, alternative use or destruction of certain food

7.—(1) If, on an inspection or examination of food for the purposes of these Regulations, it appears to an authorised officer that a batch, lot or consignment of food fails to comply with food safety requirements, or is unsound or unwholesome, he may, after appropriate consultation with a person importing the food, serve on that person a notice—

- (a) stating that the food may be used for purposes other than human consumption; or
- (b) ordering the re-dispatch of the food outside the European Community.

(2) Any notice served under paragraph (1) shall—

- (a) state the grounds the authorised officer has for believing that the food fails to comply with food safety requirements or, as the case may be, is unsound or unwholesome; and
- (b) inform the person on whom the notice is served of the right of appeal under paragraph (3).

(3) Any person who is aggrieved by a decision to serve a notice under paragraph (1) may within 6 days exclusive of Saturdays, Sundays and public holidays appeal against that decision to a court of summary jurisdiction which may cancel or affirm that notice.

(4) No person shall breach the terms of notice served under paragraph (1), unless that notice has been withdrawn by the district council serving the notice or cancelled by a court.

(5) Subject to paragraph (6), Article 8 of the Order (inspection and seizure of suspected food) shall apply with respect to food intended for human consumption which—

- (a) is or has been imported into Northern Ireland from a third country; and
- (b) on an inspection or examination by an authorised officer, appears to that officer to fail to comply with food safety requirements or, as the case may be, to be unsound or unwholesome,

as it applies with respect to food intended for human consumption which has been sold or is offered or exposed for sale where on an inspection by an authorised officer it appears to that officer that the food fails to comply with food safety requirements.

(6) For the purposes of these Regulations, Article 8 of the Order shall apply with the following modification, that is to say that the reference in paragraph (5)(a) to Article 6 or 7 of the Order shall be construed as a reference to regulation 4.

Offences and penalties

8.—(1) If any person contravenes regulation 4, 6(1) or (4) or 7(4), he shall be guilty of an offence against these Regulations.

- (2) Any person guilty of an offence against these Regulations shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.

Application of provisions of the Order

9.—(1) The following provisions of the Order shall apply for the purposes of these Regulations as they apply for the purposes of the Order and any reference in them to the Order shall be construed as a reference to these Regulations—

- (a) Articles 2(4) and 3 (extended meaning of “sale” etc);
- (b) Article 4 (presumptions that food intended for human consumption);
- (c) Article 19 (offences due to fault of another person);
- (d) Article 20 (defence of due diligence);
- (e) Article 34 (obstruction, etc, of officers);
- (f) Article 35 (time limit for prosecutions).

(2) Article 5(2) of the Order (food which fails to comply with food safety requirements) shall apply for the purposes of these Regulations as it applies for the purposes of Part II of the Order, and the reference in the said Article 5(2) to the said Part shall for the purposes of these Regulations be construed as a reference to these Regulations.

(3) For the purposes of these Regulations, Article 7(2) of the Order (food which fails to comply with food safety requirements which is part of a batch, lot or consignment of food of the same class or description) shall apply with the following modifications—

- (a) the reference to food which fails to comply with food safety requirements shall be construed as including food which is unsound or unwholesome, and
- (b) the reference to Article 7 and Article 8 shall be construed as a reference to these Regulations.

(4) For the purposes of these Regulations, Article 30 of the Order (analysis, etc, of samples procured by authorised officer of a district council) shall apply with the following modifications—

- (a) in paragraph (1)(a), for the words from “either” to “of the council” there shall be substituted “by a public analyst”;
- (b) paragraph (3) shall be omitted; and
- (c) the reference in paragraph (8) to the Order shall be construed as a reference to these Regulations.

Amendments to the General Food Hygiene Regulations

10. The amendments to the General Food Hygiene Regulations set out in Schedule 2 shall have effect.

Revocations

11. Regulations 4 to 8, 12 to 16 and 19 and 20 of the Imported Food Regulations (Northern Ireland) 1991(7) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

14th November 1997.

D. A. Baker
Assistant Secretary

SCHEDULE 1

Regulations 2(1), 3(1) and 4

Exempt Products of Animal Origin

1. Fishery products and products derived from aquaculture animals.
2. Live filter-feeding lamellibranch molluscs, echinoderms, tunicates and marine gastropods.
3. Frogs' legs and snails.
4. The meat of domestic animals of the following species: bovine animals (including buffalo of the species *Bubalus bubalis* and *Bison bison*), swine, sheep, goats, solipeds and rabbits.
5. The meat of wild land mammals which are hunted.
6. The meat of non-domesticated animals which are reared and slaughtered in captivity.
7. The meat of domestic fowls, turkeys, guinea fowls, ducks and geese.
8. The meat of birds, including raites, which are either wild or not generally considered domestic (including the meat of such birds in circumstances where they have been reared and slaughtered in captivity).
9. Meat preparations, meat products, mechanically recovered meat and minced meat.
10. Shell eggs laid by a hen, duck, goose, turkey or guinea fowl.
11. Egg products, other than finished foodstuffs, obtained from eggs laid by a hen, duck, goose, turkey or guinea fowl, including where partially supplemented by other foodstuffs or additives and where liquid, concentrated, crystallised, frozen, quick-frozen, coagulated or dried.
12. Milk and milk based products.
13. Honey.
14. Meat extracts and meat powder.
15. Lard and rendered animal fat.
16. Greaves, fish meal, meatmeal and pork-rind powder.
17. Stomachs, bladders and intestines.
18. Blood and blood products.
19. Bones, bone products, horns, horn products, hooves and hoof products.
20. Gelatin and tallow.

SCHEDULE 2

Regulation 10

Amendments to the General Food Hygiene Regulations

1. In paragraph (1) of regulation 2 of the General Food Hygiene Regulations (interpretation) after the definition of “hygiene” there shall be inserted—

““list of acceptable previous cargoes for liquid oils or fats” means the list set out in the Annex to Commission Directive 96/3/EC granting a derogation from certain provisions of Council Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport of bulk liquid oils and fats by sea(8);”.

(8) O.J. No. L21, 27.1.96, p. 42

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

2. In sub-paragraph (2) of paragraph 2 of Chapter IV of Schedule 1 to the General Food Hygiene Regulations (transportation of certain bulk foodstuffs)—

- (a) before “Bulk foodstuffs” there shall be inserted “Subject to sub-paragraphs (3) and (4)”; and
- (b) for “granular” there shall be substituted “granulate”.

3. After sub-paragraph (2) of paragraph 2 of Chapter IV of Schedule 1 to the General Food Hygiene Regulations there shall be inserted—

“(3) The bulk transport in sea-going vessels of liquid oils or fats which are to be processed, and which are intended for or likely to be used for human consumption, is permitted in tanks that are not exclusively reserved for the transport of foodstuffs, subject to the following conditions—

- (a) where the oil or fat is transported in a stainless steel tank, or tank lined with epoxy resin or technical equivalent, the immediately previous cargo transported in the tank shall have been a foodstuff or a cargo from the list of acceptable previous cargoes for liquid oils or fats;
- (b) where the oil or fat is transported in a tank of materials other than those in head (a), the three previous cargoes transported in the tanks shall have been foodstuffs or from the list of acceptable previous cargoes for liquids oils or fats.

(4) The bulk transport in sea-going vessels of liquid oils or fats which are not to be further processed, and which are intended for or are likely to be used for human consumption, is permitted in tanks that are not exclusively reserved for the transport of foodstuffs, subject to the following conditions—

- (a) the tank shall be of stainless steel or lined with epoxy resin or technical equivalent.
- (b) the three previous cargoes transported in the tank shall have been foodstuffs.”.

4. After paragraph 2 of Chapter IV of Schedule 1 to the General Food Hygiene Regulations there shall be inserted—

“2A.—(1) The captain of a sea-going vessel transporting, in tanks, bulk liquid oils or fats intended for or likely to be used for human consumption shall keep accurate documentary evidence relating to the three previous cargoes carried in the tanks concerned, and the effectiveness of the cleaning process applied between these cargoes.

(2) Where the cargo has been trans-shipped, in addition to the documentary evidence required in sub-paragraph (1), the captain of the receiving vessel shall keep accurate documentary evidence that the transport of the bulk liquid oil or fat complied with the provisions in paragraph 2(3) or (4) during previous shipment and of the effectiveness of the cleaning process used between these cargoes on the other vessel.

(3) Upon request, the captain of the vessel shall provide the district council with documentary evidence described in sub-paragraphs (1) and (2).”.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations contain measures relating to the control of certain types of food imported into Northern Ireland which are not in free circulation within the European Community. They replace the general provisions of the Imported Food Regulations (Northern Ireland) 1991 with a new set of provisions for all food other than exempt products of animal origin. The Regulations also contain amendments to the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995 which implement Commission Directive [96/3/EC](#) which grants a derogation from certain provisions of Council Directive [93/43/EEC](#) on the hygiene of foodstuffs (O.J. No. L.175, 19.7.93, p. 1).

Regulation 2 is an interpretation provision. Regulation 3 explains the scope of the Regulations. The Regulations apply to all imported food other than exempt products of animal origin — a term which is defined with reference to the list of exempt products in Schedule 1 to the Regulations — if that food is not in free circulation within the European Community or was not in free circulation in the European Community when it first arrived in the British Islands. Regulation 3(3) explains who may be considered an importer for the purposes of these Regulations.

Regulation 4 contains the prohibition on importation of food which comes within the scope of these Regulations and fails to comply with food safety requirements or is unsound or unwholesome.

Regulation 5 provides for enforcement of the Regulations, and includes provisions relating to deferred examinations.

Regulation 6 deals with the procedures relating to examination of imported food which comes within the scope of the Regulations. It includes a requirement that the importer must provide all such facilities as the authorised officer may reasonably require (regulation 6(1)), and a detention notice procedure where the authorised officer considers that he should procure a sample of the importer's food (regulation 6(2) to (6)).

Regulation 7(1) to (4) contains a notice procedure for allowing the re-export of food which appears to fail to comply with regulation 4 or for enabling the district council to permit the import of such food for purposes other than human consumption. Alternatively, the district council may seek to have such food destroyed in accordance with established Food Safety (Northern Ireland) Order 1991 procedures (regulation 7(5) and (6)).

Regulation 8 deals with offences and penalties, and regulation 9 deals with the application, in some cases with modifications, of certain provisions of the Food Safety (Northern Ireland) Order 1991.

Regulation 10 and Schedule 2 cover amendments to the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995. The amendments implement a corrigendum (O.J. No. L208, 5.9.95, p. 20) to paragraph 2(2) of Chapter IV of the Annex to Council Directive [93/43/EEC](#) on the hygiene of foodstuffs. As indicated above, Commission Directive [96/3/EC](#), which contains derogations from paragraph 2(2) of Chapter IV of the Annex to Council Directive [93/43/EEC](#), is also implemented by virtue of these Regulations. The derogations relate to the transportation in sea-going vessels of liquid oils and fats, and the implemented provisions of Commission Directive [96/3/EC](#) also contain new documentary requirements which have to be met by the captains of such vessels.

Regulation 11 is a revocations provision.