

1973. No. 453

[C]

**FOOD AND DRUGS****Shell-fish Regulations**

REGULATIONS, DATED 28TH SEPTEMBER 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTIONS 7, 13 AND 68 OF THE FOOD AND DRUGS ACT (NORTHERN IRELAND) 1958.

The Ministry of Health and Social Services, on behalf of the Secretary of State and in exercise of the powers conferred on it by sections 7, 13 and 68 of the Food and Drugs Act (Northern Ireland) 1958(a) and of all other powers enabling it in that behalf, having consulted with such organisations as appear to it to be representative of interests substantially affected by these regulations, hereby makes the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Shell-fish Regulations (Northern Ireland) 1973, and shall come into operation on 1st October 1973.

*Interpretation*

2.—(1) In these regulations—

“the Act” means the Food and Drugs Act (Northern Ireland) 1958;

“the Ministry” means the Ministry of Health and Social Services;

“council” means a district council or a borough council established under the Local Government Act (Northern Ireland) 1972(b);

“district” means the district of a council;

“Health and Social Services Board” has the meaning assigned by the Health and Personal Social Services (Northern Ireland) Order 1972(c);

“laying” means an area of sea bed, foreshore, laying, pond, pit, ledge, float or other place where shell-fish are taken or deposited;

“order” means an order made under these regulations;

“person interested” in relation to any laying affected by an order means every owner and tenant of the laying;

“premises” means any place or premises where any process of sterilisation or cleansing of shell-fish takes place;

“private laying” means a laying where shell-fish are not habitually taken or deposited except by the owner or by the tenant of the laying, and

“tenant” includes any person authorised by the owner or by a tenant to take or deposit shell-fish;

“public laying” means a laying which is not a private laying;

“shell-fish” means molluscan shell-fish.

(a) 1958. c. 27.

(b) 1972. c. 9 (N.I.).

(c) S.I. 1972, No. 1265 (N.I. 14).

*Action to be taken on suspicion of danger to public health from shell-fish*

3.—(1) If the chief administrative medical officer of a Health and Social Services Board is in possession of information that any person is suffering, or has recently suffered, from notifiable or other diseases attributable to shell-fish, or that the consumption of shell-fish exposed for sale within the district is likely to cause danger to public health, he should make such enquiries and take such other steps as are practicable to ascertain the layings from which such shell-fish were taken, and shall report thereon to the council.

(2) For the purpose of such enquiries the council may require any person supplying shell-fish in the district to furnish to the chief administrative medical officer of the Health and Social Services Board within a reasonable time fixed by them, a list of all the layings, as far as he can with reasonable diligence ascertain them, from which his supply of shell-fish has been derived during any period not exceeding six weeks immediately preceding the date of the requisition, together with any information in his possession which will assist the chief administrative medical officer in ascertaining the particular laying or layings from which any suspected shell-fish were taken and, if the supply or any part of it was obtained through any other person, the council may make a similar requisition upon that person. A person on whom a requisition is made under this paragraph shall comply with the requisition.

(3) If any laying from which suspected shell-fish are found to have been taken is situate in or in the sea adjoining the area of the Health and Social Services Board the chief administrative medical officer shall make an investigation with regard to the laying and shall report thereon to the council within or in the sea adjoining whose district the laying is situate, and shall furnish with his report copies of any bacteriological or other reports obtained by him.

(4) If any such laying is not situate in or in the sea adjoining the area of the Health and Social Services Board wherein the complaint originated, the council shall send to the council within or in the sea adjoining whose district the laying is situate a copy of the chief administrative medical officer's report and any other information which may be in their possession indicating possible danger to public health from the consumption of shell-fish taken from the laying, and they may, in addition, make such representations as they consider necessary with regard to the making of an order under these regulations.

(5) Upon receipt of such information the council of the district in or in the sea adjoining which the laying is situate shall ask the chief administrative medical officer of the Health and Social Services Board for that area to make an investigation with regard to the laying and to report to them thereon and the report shall be accompanied by copies of any bacteriological or other reports obtained by him.

*Power of council to make orders*

4.—(1) On receipt of a report of the chief administrative medical officer of an investigation made by him with regard to a laying situate in or in the sea adjoining their district, the council, if satisfied that the consumption of shell-fish taken from the laying is likely to cause danger to public health, may make an order in the form set out in the Schedule prohibiting the distribution for sale for human consumption of shell-fish taken from the laying, either absolutely or subject to such exceptions and conditions as they may think proper.

(2) At least twenty-one days before making any such order the council shall give notice of the proposal to make the order stating the grounds on which the proposal is made, and shall give all persons interested a reasonable opportunity of making representations with regard thereto.

(3) In the case of a private laying such notice shall be served on every owner and tenant of the laying whose name and address can with reasonable diligence be ascertained, and in the case of a public laying it shall be given by means of posters affixed in conspicuous places in the vicinity of the laying or in such other manner as the council consider best calculated to bring the proposal to the attention of the persons interested. In either case a copy of the notice shall be sent to the Ministry and the Ministry of Agriculture.

(4) The council shall supply a copy of the report of the chief administrative medical officer to any person interested, on payment of a reasonable sum.

(5) If the council decide to make no order, they may allow any person interested any reasonable expenses incurred by him in making representations.

#### *Publication of orders*

5.—(1) As soon as practicable after an order has been made the council shall—

- (a) publish in one or more local newspapers circulating within their district and send to the Ministry and the Ministry of Agriculture a notice stating that the order has been made and either setting out the terms of the order or naming a place where a copy may be inspected at all reasonable hours;
- (b) if the order relates to a private laying, serve a like notice, either personally or by post, upon every owner and tenant of the laying whose name and address can with reasonable diligence be ascertained.

(2) Before an order comes into operation, or as soon as practicable thereafter, the council shall, if the laying is a public laying, and may, if it is a private laying, cause warning notices containing a copy of the order or an adequate statement of its terms printed in easily legible type to be posted in conspicuous places in the vicinity of the laying.

#### *Duty to inform the Ministry and the Ministry of Agriculture of action taken*

6. A council shall as soon as possible inform the Ministry and the Ministry of Agriculture of any action taken by them under these regulations.

#### *Action to be taken on representations as to the making of an order*

7.—(1) If a report made to a council by the chief administrative medical officer is made in consequence of representations made by some other council under paragraph (4) of regulation 3, the first mentioned council shall as soon as possible inform the other council what action, if any, they propose to take in consequence of the representations, and if they make an order shall send to the other council a copy of that order.

(2) The other council may appeal to the Ministry—

- (a) against a decision of the first mentioned council not to make an order; or
- (b) against the neglect of the first mentioned council to make an order within a reasonable time; or
- (c) if an order has been made by the first mentioned council, on the grounds that the order does not provide adequate safeguards for the health of the public.

(3) An appeal against a decision not to make an order or on the grounds that the order does not provide adequate safeguards must be made within one month from the receipt by the appellant council of notice of the decision or of a copy of the order, as the case may be.

(4) Upon consideration of the appeal the Ministry may, if it considers it to be necessary, make any such order as the first mentioned council could have made or may vary any order made by that council, as the case may require, and any order so made or varied shall have effect as if it had been made in that form by the council:

Provided, however, if no appeal is made to the Ministry on any of the grounds specified, the Ministry may, if it thinks fit having regard to the particular circumstances of the case, make such order as the first mentioned council could have made or may vary any order made by that council, as the case may require, and any order so made or varied shall have effect as if it had been made in that form by the council.

#### *Appeals against orders*

8.—(1) Any person aggrieved by an order made under regulation 4 may appeal to the Ministry within fourteen days after the publication of notice of the order, or if the appellant has been served with a notice of the order as the owner or tenant of a private laying, within fourteen days after receipt of the notice.

(2) Upon consideration of the appeal the Ministry may confirm the order with or without modification or may quash the order, as it thinks fit.

(3) No appeal shall lie under this regulation against an order which has been made or varied by the Ministry on an appeal made under the last preceding regulation:

Provided, however, that if no appeal is made to the Ministry under this regulation the Ministry may, if it thinks fit, having regard to the particular circumstances of the case vary, modify or quash such an order.

#### *Variation and revocation of orders*

9.—(1) If at any time a council are satisfied, whether upon application made to them by a person interested or otherwise, that an order made by them under these regulations may without prejudice to the public health be varied or revoked, they shall forthwith make an order varying or revoking the original order, as the case may require, and shall send a statement of the reasons for the variation or revocation of the order to the Ministry, the Ministry of Agriculture and to any council who made a representation in regard to any laying to which the original order relates:

Provided that no order which has been made or varied by the Ministry on appeal under regulation 7 shall be varied or revoked without the consent of the Ministry.

(2) Any person who has made application for the variation or revocation of an order may appeal to the Ministry against a decision of the council not to vary or revoke the order or their failure to do so within a reasonable time, and upon consideration of the appeal the Ministry may, if it thinks fit, make an order varying or revoking the original order, and any order so made shall have effect as if it was made by the council.

(3) An appeal against a decision not to vary or revoke the order must be made within one month from the receipt by the appellant of the notice of the decision.

(4) Regulation 5 which relates to the publication of notice of orders shall apply to a varying or revoking order:

Provided, however, that if no appeal is made under this regulation for the variation or revocation of an order, the Ministry may, if it thinks fit, having regard to the particular circumstances of the case vary or revoke such order and any order so made shall have effect as if it was made by the council.

#### *Date of operation of orders*

10. An order shall become operative on such date, being not less than fourteen days after publication of the notice that the order has been made, as may be specified in the order or, if an appeal against the order has been made under regulation 8 and the order has been confirmed with or without modification, on such date as the Ministry may determine.

#### *Offences*

11. If an order in regard to any laying is in operation, a person shall not contrary to the provisions of the order sell or expose, distribute, offer for sale or have in his possession for the purpose of sale for human consumption any shell-fish taken from the laying.

#### *Penalties*

12.—(1) If any person contravenes or fails to comply with any of the foregoing provisions he shall be guilty of an offence and shall be liable on summary conviction—

- (a) to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to a further fine of five pounds for each day during which the offence continues after conviction.

(2) The requirements of section 47(3) of the Act (which requires notice to be given to the Ministry of intention to begin a prosecution for an offence against any provisions of these regulations made under section 7 of the Act) shall not apply as respects any proceedings instituted by a council for an offence against any such provisions”.

#### *Enforcement of orders*

13.—An order made under these regulations shall be executed and enforced by the council making the order which shall make all such enquiries and inspections, as may be necessary to secure that the provisions of the order are strictly complied with.

#### *Revocation*

14. The Public Health (Shell-fish) Regulations (Northern Ireland) 1936(d) are hereby revoked.

Sealed with the Official Seal of the Ministry of Health and Social Services  
for Northern Ireland this 28th day of September 1973.

(L.S.)

G. Buchanan,  
Assistant Secretary.

## SCHEDULE

## SHELL-FISH REGULATIONS (NORTHERN IRELAND) 1973

## ORDER MADE BY THE\*

In pursuance of the powers conferred on them by the Shell-Fish Regulations (Northern Ireland), 1973 the\*

*\*Insert name of council*

hereby makes the following Order:—

1. In this Order “prescribed area” means†

*†Insert description of area*

2. A person shall not sell, expose, distribute, offer for sale or have in his possession for the purpose of sale for human consumption any (‡shell-fish, e.g., oysters, mussels, cockles) taken from within the prescribed area§ unless such (‡shell-fish, e.g. oysters, mussels, cockles) have been—

*‡These words should be varied according to circumstances*

*§Omit any of the succeeding words which are not applicable*

(a) subjected to a satisfactory process of cleansing and purification at an establishment which is for the time being approved by the Ministry of Health and Social Services for the purpose; or

(b) relaid in pure water for such period and in such places as may from time to time be approved for the purposes by the said Council; or

(c) subjected to a process of sterilisation by steam under pressure for at least six minutes in an apparatus which is for the time being approved by the said Council.

3. This Order shall come into operation on the day of 19

Given under the Common Seal of the this day of

## EXPLANATORY NOTE

*(This note is not part of the Regulations, but is intended to indicate their general purport.)*

These regulations re-enact the Public Health (Shell-Fish) Regulations (Northern Ireland) 1936 to take account of the reorganisation of local government which takes effect from 1st October 1973.

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**1973. No. 454**

This Order has been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading PUBLIC HEALTH.