

Statutory Instrument 1993 No. 1520

The Egg Products Regulations 1993

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STATUTORY INSTRUMENTS

1993 No. 1520

FOOD

The Egg Products Regulations 1993

<i>Made</i>	<i>10th June 1993</i>
<i>Laid before Parliament</i>	<i>23rd June 1993</i>
<i>Coming into force</i>	<i>14th July 1993</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 16(1) and (3), 17(1), 26 and 48(1) of, and paragraphs 1 and 4(b) of Schedule 1 to, the Food Safety Act 1990^[1] and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48(4) of the said Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations:—

Title and commencement

1. These Regulations may be cited as the Egg Products Regulations 1993 and shall come into force on 14th July 1993.

Interpretation and application

- 2.—(1) In these Regulations, unless the context otherwise requires—
- "the Act" means the Food Safety Act 1990;
 - "appropriate Minister" means as respects England, the Minister of Agriculture, Fisheries and Food, and as respects Scotland or Wales, the Secretary of State;
 - "approval" means, in relation to an establishment, an approval granted by a food authority under regulation 5(2);
 - "approved", in relation to an establishment, means an establishment approved by the food authority for the area in which it is situated;
 - "batch" means a quantity of egg products which have been prepared under the same conditions and in particular treated in a single continuous operation;
 - "cracked eggs" means eggs with a damaged but unbroken shell, with intact membranes;
 - "egg" means an egg laid by a hen, duck, goose, turkey, guinea fowl or quail;
 - "egg products" means products obtained from eggs, their various components or mixtures thereof, after removal of the shell and outer membranes, intended for human consumption, and includes such products when partially supplemented by other foodstuffs and additives and such products when liquid, concentrated, crystallised, frozen, quick-frozen, coagulated or dried, but does not include finished foodstuffs;
 - "egg products establishment" means any establishment at which egg products are treated, handled or obtained for the purpose of sale for human consumption;
 - "food authority" means—
 - (a) in relation to England and Wales—
 - (i) as respects each district or London borough, the council of that district or borough;
 - (ii) as respects the City of London (including the Temples), the Common Council;
 - (iii) as respects the Inner Temple or the Middle Temple, the appropriate Treasurer; and
 - (b) in relation to Scotland, the islands or district council,and in relation to England and Wales includes a port health authority;
 - "handling" includes manufacturing, preparing, processing, packaging, wrapping or re-wrapping;
 - "incubated eggs" means eggs from the time of insertion in the incubator as defined in Council Regulation 1907/90/EEC^[2] as amended^[3] on certain marketing standards for eggs;
 - "occupier" means in relation to any person carrying on a business as a manufacturer of egg products, that person or his duly authorised representative;
 - "sell" includes offer, handle, or expose, or have in possession for sale or supply in the course of a business;
 - "supply" means supply otherwise than by sale;
 - "whole egg" means a mixture of yolk and albumen.

(2) The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and unless the context otherwise requires any reference in them to the Act shall be construed as a reference to these Regulations—

- (a) section 2 (extended meaning of "sale" etc.);
- (b) section 3 (presumption that food intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence);

- (e) section 22 (defence of publication in the course of business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 33 (obstruction etc. of officers);
- (h) section 36 (offences by bodies corporate);
- (i) section 44 (protection of officers acting in good faith).

(3) Section 8(3) (which makes presumptions in the case of batches of food) of the Act shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.

(4) Section 9 (inspection and seizure of suspected food) of the Act shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.

(5) Section 34 (which relates to time limits for the commencement of prosecutions) of the Act shall apply in relation to offences under these Regulations as it applies to offences punishable under section 35(2) of the Act.

(6) Any reference in these Regulations to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule bearing that number in these Regulations.

Preparation requirements for egg products

3.—(1) Subject to paragraph (4) below, no person shall sell for human consumption, or use in the preparation of food intended for sale for human consumption, any egg products which are a mixture of egg products obtained from more than one species.

(2) Subject to paragraph (3) and (4) below, no person shall sell for human consumption, or use in the preparation of food intended for sale for human consumption, any egg products unless those egg products comply with the requirements specified in Schedule 1 as read with Schedules 2, 3, 4, 5 and 6.

(3) Notwithstanding paragraph (2) above, any egg products which have been prepared in another Member State shall not have to comply with the requirements in Part II of Schedule 2.

(4) Notwithstanding paragraphs (1) and (2) above, egg products—

- (a) obtained from eggs of ducks, geese, turkeys, guinea fowl, quail or graded A under Council Regulation 1907/90/EEC^[4] as amended^[5], or
- (b) obtained from eggs containing no crack visible to the naked eye without candling and made into egg products at the farm where those eggs were produced,

may be used in the preparation of food intended for sale for human consumption if—

- (i) they are so used at the establishment where they were obtained, whether or not the food is consumed at that establishment, and
- (ii) they comply with the requirements of paragraphs 1, 2(a), 3 and 4 of Schedule 1.

(5) No person shall on or after 14th October 1993 sell for human consumption, or use in the preparation of food intended for sale for human consumption, any egg products unless—

- (a) in the case of egg products prepared in Great Britain, they were prepared in an approved establishment in accordance with regulation 5; or

(b) in the case of egg products from another part of the Economic Community, they were prepared in an establishment which has been approved in accordance with Article 6 of Council Directive 89/437/EEC^[6] as amended^[7] on hygiene and health problems affecting the production and placing on the market of egg products.

Records

- 4. Any person applying heat treatment to egg products shall-
 - (a) keep accurate records of the results of each test or process carried out by him as specified in Schedule 2 or 3, or in Parts II, III, IV, V or VI of Schedule 4;
 - (b) retain such records for a period of not less than two years from the date of the test or process to which the record relates;
 - (c) produce such records on request to the appropriate food authority.

Approved establishments

5.—(1) No person shall on or after 14th October 1993 manufacture any egg products or (except in the circumstances referred to in regulation 3(4)) apply heat treatment to any egg products for the purpose of sale for human consumption otherwise than in an establishment approved for the purposes of these Regulations by the food authority and which complies with the appropriate requirements of Schedules 1 and 8.

(2) The food authority on application made to it under this regulation shall issue an approval if it is satisfied that the egg products establishment complies with the requirements of these Regulations.

(3) Each application for an approval of an egg products establishment shall be made in writing under this regulation to the food authority by the owner or occupier of, or a person proposing to occupy the establishment to which the application relates.

(4) The application for the purposes of paragraph (3) above shall contain such information as the food authority may require.

(5) Each food authority shall after an inspection of the egg products establishment consider each application for the approval of any establishment for the purposes of these Regulations and shall approve it only if satisfied that its arrangements at the establishment are such that—

- (a) the storage at and transport from such establishment of egg products will comply with Schedules 5 and 6;
- (b) the requirements of Schedule 8 will not be contravened;
- (c) the packaging of egg products will comply with Schedule 9;
- (d) the marking of egg products from such establishment will comply with Schedule 10.

(6) The food authority shall, not later than 28 days after receipt of the application referred to in paragraph (3) above, notify the applicant in writing of its decision on each application for an approval under this regulation and of the reasons for any refusal to approve such egg products establishment.

(7) Any approval granted in respect of any egg products establishment under this regulation shall be subject to the condition that any alteration to the establishment shall comply, if appropriate, with the requirements of Schedules 1, 5 and 8.

(8) Any person who is aggrieved by the decision of a food authority not to grant an approval or by the imposition of specified conditions, may appeal against that

decision in accordance with the provisions of section 37(3) to (6) inclusive of the Act.

(9) The food authority shall allot an approval number to each egg products establishment it approves for the purposes of these Regulations.

(10) Without prejudice to sections 9 to 12 of the Act, where the food authority has refused an approval under this regulation, a person who prior to the commencement of these Regulations, immediately before such refusal had been using an establishment for the handling of egg products, may continue to use it for that purpose, subject to any reasonable conditions imposed by the food authority for the protection of public health, until the time for appeal has expired and, if an appeal is lodged, until the appeal is finally disposed of or abandoned.

Revocation of approvals

6.—(1) The appropriate Minister may revoke an approval granted under regulation 5 in respect of any egg products establishment if, after an inspection of, or an inquiry into, the method of operation of the establishment he is satisfied in respect of the establishment—

- (a) that any of the requirements of these Regulations is no longer being complied with;
- (b) that any of the requirements of these Regulations has not been complied with and no action has been taken to ensure that a similar breach does not occur in future; or
- (c) that any condition of the approval in accordance with regulation 5(7) has not been complied with.

(2) The appropriate Minister shall forthwith notify the owner or occupier in writing of his decision under paragraph (1) above to revoke any approval granted under these Regulations, in respect of any egg products establishment, of the date on which the revocation is to take effect and of the reasons for such revocation and the procedure in respect of any appeal against such revocation shall be that set out in regulation 5(8).

Movement between approved establishments

7.—(1) No person shall despatch a container of non-pasteurised egg products from an approved establishment for treatment at another approved establishment unless he ensures that—

- (a) as soon as the egg products have been obtained after breaking the eggs they shall be stored deep frozen or chilled in accordance with Schedule 5, and
- (b) the egg products comply with the requirements specified in Schedule 1, other than paragraphs 6, 7, 8 and 15, and with the transport requirements specified in Schedule 6.

(2) For the purposes of these Regulations non-pasteurised egg products which satisfy the conditions specified in sub-paragraphs (1)(a) and (b) above shall be deemed to comply with the requirements in paragraphs 6, 7, 8 and 15 of Schedule 1.

(3) Notwithstanding the marking provisions specified in Schedule 10, no person shall despatch a container of non-pasteurised egg products from an approved establishment for treatment at another approved establishment unless he ensures that the container is labelled with the following information—

- (a) the words "non-pasteurised egg products";
- (b) the words "to be treated at X" where X is the place of destination;
- (c) the date and time of breaking of eggs from which the egg products were made.

(4) Any person who receives from an approved establishment a container of non-pasteurised egg products which has been chilled in accordance with Schedule 5 shall treat such chilled egg products at the approved establishment of destination within 48 hours following the day of the breaking of the eggs from which the egg products were obtained.

Supervision by the food authority

8.—(1) The food authority shall be responsible for the supervision of those establishments approved by it in accordance with regulation 5.

(2) The food authority shall in relation to an approved establishment take any supervision measures considered necessary to ensure that manufacturers of egg products comply with these Regulations and the provisions specified in Schedule 7.

Penalties and enforcement

9.—(1) If any person contravenes or fails to comply with any of the provisions of regulations 3(1), (2), (3) and (5), 4, 5(1) or 7(1), (3) and (4), he shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale in the case of regulations 3, 4(a), (b) and (c), 5 and 7;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both in the case of regulations 3, 5 and 7 and to a fine in the case of regulation 4(a).

(2) Each food authority shall enforce and execute the provisions of these Regulations in its area.

Revocations and transitional provisions

10.—(1) The Regulations specified in columns 1 and 2 of Schedule 11 to these Regulations are revoked to the extent specified in relation thereto in column 3 of that Schedule as from 14th October 1993.

(2) No proceedings shall be instituted in the period between the date these Regulations come into force and 14th October 1993 in respect of any act which is alleged to constitute a contravention of the regulations specified in Schedule 11 where any such act is in compliance with the relevant provisions of these Regulations were they in force.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

Gillian Shephard

Minister of Agriculture, Fisheries and Food

10th June 1993.

Signed by authority of the Secretary of State for Health

Cumberlege

Parliamentary Under Secretary of State, Department of Health

8th June 1993

John Redwood

Secretary of State for Wales

10th June 1993

Hector Monro

Parliamentary Under Secretary of State, Scottish Office

8th June 1993

Notes:

[1] 1990 c. 16; "the Ministers" is defined in section 4(1) of the Act. [back](#)

[2] OJ No. L173, 6.7.90, p.5. [back](#)

[3] Commission Regulation 1274/91/EEC (OJ No. L121, 16.5.91, p.11), Commission Regulation 3540/91/EEC (OJ No. L335, 6.12.91, p.12) and Commission Regulation 2221/92/EEC (OJ No. L218, 1.8.92, p.81). [back](#)

[4] OJ No. L173, 6.7.90, p.5. [back](#)

[5] Commission Regulation 1274/91/EEC (OJ No. L121, 16.5.91, p.11), Commission Regulation 3540/91/EEC (OJ No. L335, 6.12.91, p.12) and Commission Regulation 2221/92/EEC (OJ No. L218, 1.8.92, p.81). [back](#)

[6] OJ No. L212, 22.7.89, p.87. [back](#)

[7] Council Directive 89/662/EEC (OJ No. L395, 30.12.89, p.13) and Council Directive 91/684/EEC (OJ No. L376, 31.12.91, p.38). [back](#)