

Statutory Instrument 1992 No. 1507

The Food Safety (Fisheries Products) (Derogations) Regulations 1992

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STATUTORY INSTRUMENTS

1992 No. 1507

FOOD

FOOD SAFETY

The Food Safety (Fisheries Products) (Derogations) Regulations 1992

<i>Made</i>	<i>24th June 1992</i>
<i>Laid before Parliament</i>	<i>25th June 1992</i>
<i>Coming into force</i>	<i>1st July 1992</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales, acting jointly in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in the exercise of the powers conferred upon them by sections 6(4) and 17(1) of the Food Safety Act 1990^[1] and all other powers enabling them in that behalf, after consultation in accordance with section 48(4) of that Act with such organisations as appeared to them to be representative of interests likely to be substantially affected, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Food Safety (Fishery Products) (Derogations) Regulations 1992 and shall come into force on 1st July 1992.

Interpretation

2.—(1) In these Regulations—

"the Council Directive" means Council Directive 91/493/EEC^[2], of 22nd July 1991, laying down the health conditions for the production and the placing on the market of fishery products;

"chilling" means any process of cooling fishery products to a temperature approaching that of melting ice;

"derogation" means the grant of a further period within which to comply fully with the conditions for the approval of factory vessels, establishments, auction markets or wholesale markets set out in Chapters I to IV of the Annex to the Council Directive, which conditions are set out in column (1) to the Schedule to these Regulations;

"establishment" means any premises where fishery products are prepared, processed, chilled, frozen, packaged or stored but not premises of auction or wholesale markets where only display and sale by wholesale takes place;

"factory vessel" means any vessel on which fishery products undergo one or more of the following operations followed by packaging; filleting, slicing, skinning, mincing, freezing or processing but not a fishing vessel in which only shrimps and molluscs are cooked on board or a fishing vessel on board which only freezing is carried out;

"fishery products" means all seawater or freshwater animals or parts thereof, including their roes, excluding aquatic mammals, frogs and aquatic animals covered by other community acts;

"frozen product" means any fishery product which has undergone a freezing process to reach a core temperature of — 18°C or lower after temperature stabilization;

"food authority" means an authority specified in regulation 6 as an authority which is to enforce and execute these Regulations;

"prepared product" means any fishery product which has undergone an operation affecting its anatomical wholeness, such as gutting, heading, slicing, filleting or chopping;

"processed product" means any fishery product which has undergone a chemical or physical process such as the heating, smoking, salting, dehydration or marinating of chilled or frozen products whether or not associated with other foodstuffs, or a combination of these processes;

"relevant requirement" means subject to paragraph (2) a condition set out in column (1) of the Schedule to these Regulations in respect of which there is an entry in column (2) of that Schedule which indicates that it is a condition in respect of which, in accordance with Chapter IX of the Council Directive, a derogation may be made.

(2) For the purposes of these Regulations where there is in relation to a relevant requirement a limitation mentioned in column (2) of the Schedule, that requirement is a relevant requirement only to the extent indicated by that limitation.

(3) In these Regulations—

(a) a reference to a numbered regulation is a reference to the regulation in these Regulations which bears that number;

(b) a reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation which bears that number.

(4) In the Schedule to these Regulations—

- (a) a reference to the Annex is a reference to the Annex to the Council Directive;
- (b) a reference to a numbered Chapter is a reference to the Chapter which bears that number in the Annex;
- (c) a reference to a numbered Section is a reference to the Section which bears that number in the Annex;
- (d) a reference in a Chapter to a numbered section or point is a reference to the section or point which bears that number in that Chapter.

Approval of factory vessels, establishments, auction markets and wholesale markets

3. On and after 1st January 1993 no person shall operate any factory vessel, establishment, auction market or wholesale market unless it has been approved by the Secretary of State, and no such centre shall be so approved unless—

- (a) the Secretary of State is satisfied that it meets the requirements of the Council Directive; or
- (b) the Secretary of State is satisfied that it meets those requirements save in so far as there is in force in respect of it a derogation granted under regulation 5.

Method of applying for a derogation

4.—(1) The proprietor of a food business which consists of or includes the operation of a factory vessel, establishment, auction market or wholesale market which was operating either on the 31st December 1991, or on the last working day immediately before that date, may apply to the Secretary of State, before 1st July 1992, for a derogation.

(2) An application for the purposes of paragraph (1) shall—

- (a) be made in writing;
- (b) specify in respect of which factory vessel, establishment, auction market or wholesale market and which of the relevant requirements a derogation is sought; and
- (c) be accompanied by a plan of the work intended by the proprietor together with a timetable indicating the period within which the proprietor intends the factory vessel, establishment, auction market or wholesale market to comply with the relevant requirement the subject of the application for a derogation.

Method of determining an application for a derogation

5.—(1) After receiving an application for a derogation in respect of a factory vessel, establishment, auction market or wholesale market which complies with regulation 4 the Secretary of State shall send a copy of it to the food authority in whose area the factory vessel, establishment, auction market or wholesale market is situated.

(2) A food authority which receives a copy of an application pursuant to paragraph (1) shall invite the representations of the applicant and, after having regard to any such representations, shall send to the Secretary of State, within 12 weeks of receipt of the copy, a written assessment of the need for the derogation and of the suitability of the plan of the work and the timetable.

(3) A food authority shall at the same time as providing the written assessment to the Secretary of State, send a copy of it to the applicant inviting him to send to the Secretary of State, within 4 weeks of the date on which the assessment was sent to the Secretary of State, his observations on it.

(4) After considering the assessment of the food authority and any observations

made pursuant to the invitation mentioned in paragraph (3), the Secretary of State shall either grant or refuse the application for a derogation in respect of all or any of the requirements in respect of which a derogation was sought.

(5) Subject to paragraph (6) if an application for a derogation is granted the Secretary of State shall—

- (a) designate the factory vessel, establishment, auction market or wholesale market and the relevant requirements in respect of which the derogation is granted; and
- (b) specify the period of the derogation, which shall not in any case expire after 31st December 1995.

(6) If an application is granted for a derogation from any relevant requirement referred to in any of sub-paragraphs (a) to (w) of paragraph (7), the Secretary of State shall specify that the derogation shall apply only if and so long as the condition mentioned in that sub-paragraph is satisfied.

(7) The requirements and conditions referred to in paragraph (6) are—

- (a) as respects point 1(a) of Section 1 of Chapter I, the condition is that fishery products are sheltered from the sun and the elements and from any source of dirt or contamination;
- (b) as respects point 1(c) of Section 1 of Chapter I, the condition is that the contamination of fishery products is avoided;
- (c) as respects point 1(d) of Section 1 of Chapter I, the condition is that the finished products are stored on board at the required temperature;
- (d) as respects point 1(g) of Section 1 of Chapter I, the condition is that products for human consumption are not contaminated by waste water, waste or engine coolant;
- (e) as respects point 1(h) of Section 1 of Chapter I, the condition is that the staff handling fishery products are able to wash their hands after using the toilet;
- (f) as respects point 2(a) of Section 1 of Chapter I, the condition is that the floors are properly cleaned and disinfected;
- (g) as respects point 3 of Section 1 of Chapter I, the condition is that the equipment and tools are well maintained;
- (h) as respects point 3(a) of Section 1 of Chapter II, the condition is that the walls are kept clean;
- (i) as respects point 3(b) of Section 1 of Chapter II, the condition is that the flooring is kept clean after every sale;
- (j) as respects point 3(e) of Section 1 of Chapter II, the condition is that fishery products contaminated by exhaust fumes are withdrawn from the market;
- (k) as respects point 3(j) of Section 1 of Chapter II, the condition is that products which are not fit for human consumption cannot contaminate or be mixed with fishery products;
- (l) as respects point 1 of Section I of Chapter III, the condition is that finished products cannot be contaminated by raw materials or waste;
- (m) as respects point 2(a) of Section I of Chapter III, the condition is that flooring is cleaned and disinfected accordingly;
- (n) as respects point 2(b) of Section I of Chapter III, the condition is that the walls are kept clean;
- (o) as respects point 2(c) of Section I of Chapter III, the condition is that the ceiling is not a source of contamination;
- (p) as respects point 2(e) of Section I of Chapter III, the condition is that products cannot be spoilt or contaminated by the steam;
- (q) as respects point 2(g) of Section I of Chapter III, the condition is that there

are facilities for staff to wash their hands;

(r) as respects point 5 of Section I of Chapter III, the condition is that instruments and working equipment are kept clean;

(s) as respects point 6 of Section I of Chapter III, the condition is that products are not contaminated by waste or leakage therefrom;

(t) as respects point 1 of Section I of Chapter IV, the condition is that products are re-iced as often as necessary during a period not in excess of 12 hours, alternatively a nearby cold room not belonging to the establishment can be used;

(u) as respects point 6 of Section I of Chapter IV, the condition is that products shall not be able to be contaminated by waste or leakage therefrom;

(v) as respects point 5, of Section IV of Chapter IV, the condition is that every precaution shall be taken to prevent fishery products that are being prepared or stored from being affected by the smoke;

(w) as respects point 6 of Section IV of Chapter IV, the condition is that fishery products that are being prepared or stored are not affected by salting operations.

(8) If an application is refused or is granted otherwise than in accordance with the application the Secretary of State shall give written notice to the applicant of the reasons for his decision.

(9) The Secretary of State shall in all cases given written notice of his decision to both the applicant and the food authority which provided the assessment.

Enforcement and execution

6.—(1) Subject to paragraph (2), these Regulations shall be enforced and executed

(a) as respects each London borough or district in England and Wales, by the Council of that borough or district;

(b) as respects the City of London (including the Temples), by the Common Council;

(c) as respects each islands area or district in Scotland, by the islands or district Council; and

(d) as respects the Isles of Scilly by the Council of the Isles of Scilly.

(2) Where any functions are assigned—

(a) by an order under section 2 or 7 of the Public Health (Control of Disease) Act 1984^[3] to a port health authority; or

(b) by an order under section 172 of the Public Health (Scotland) Act 1897^[4] to a port local authority;

these Regulations shall be enforced by that authority within its area and not by the authority mentioned in paragraph (1).

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on
24th June 1992.

John Selwyn Gummer

Minister of Agriculture, Fisheries and Food

24th June 1992

Signed by authority of the Secretary of State for Health

Cumberlege

Parliamentary Under Secretary of State, Department of Health

24th June 1992

David Hunt

Secretary of State for Wales

24th June 1992

Hector Monro

Parliamentary Under Secretary of State, Scottish Office

24th June 1992

Notes:

[1] 1990 c. 16. Section 4(1) contains a definition of "the Ministers" which is relevant to the powers being exercised in the making of these Regulations. [back](#)

[2] OJ No. L 268, 24.9.1991, p.15. [back](#)

[3] 1984 c. 22. [back](#)

[4] 1897 c. 38. [back](#)