

# Statutory Instrument 1997 No. 2537

## The Imported Food Regulations 1997

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### STATUTORY INSTRUMENTS

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**1997 No. 2537**

### **FOOD**

### The Imported Food Regulations 1997

<i>Made</i>	<i>23rd October 1997</i>
<i>Laid before Parliament</i>	<i>24th October 1997</i>
<i>Coming into force</i>	<i>17th November 1997</i>

The Minister of Agriculture, Fisheries and Food, 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 exercise of the powers conferred on them by sections 6(4), 16(1), 17(1), 18(1)(c), 26(2)(e) and (3), and 48(1) of the Food Safety Act 1990<sup>[1]</sup> and in each case in exercise of all other powers respectively enabling them in that behalf, after consultation (in so far as is required) in accordance with section 48(4) of the Food Safety Act 1990 with such organisations as appear 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 Imported Food Regulations 1997 and shall come into force on 17th November 1997.**

## **Interpretation**

**2. - (1) In these Regulations, unless the context otherwise requires -**

**"the Act" means the Food Safety Act 1990;**

**"district council" means, with regard to Northern Ireland, a district council within the meaning of the Local Government Act (Northern Ireland) 1972[2];**

**"examination", with regard to the examination of food by an authorised officer of a food authority, may include a physical, chemical and microbiological examination of the food, and "examine" shall be construed accordingly;**

**"exempt product of animal origin" means one of the products mentioned in Schedule 1;**

**"fishery products" has the same meaning as in the Food Safety (Fishery Products) Regulations 1992[3];**

**"food authority" means -**

**(a) with regard to England -**

**(i) as respects the Isles of Scilly, the Council of the Isles of Scilly,**

**(ii) as respects the City of London (including the Temples), the Common Council,**

**(iii) as respects any other part of England -**

**(aa) if it is situated in a port health district, the port health authority for that district, or**

**(bb) if it is not situated in a port health district, the district council or unitary authority in whose area that part is situated;**

**(b) as respects any part of Wales -**

**(i) if it is situated in a port health district, the port health authority for that district, or**

**(ii) if it is not situated in a port health district, the county or county borough council in whose area that part is situated;**

**(c) as respects any part of Scotland -**

**(i) if it is situated in the district of a port local authority or joint port local authority, the port local authority or joint port local authority for that district, or**

**(ii) if it is not situated in the district of a port local authority or joint port local authority, the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994[4] in whose area that part is situated;**

**"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 1995[5];**

**"meat preparations", "meat products", "mechanically recovered meat" and "minced meat" have the same meaning as in the Minced Meat and Meat Preparations (Hygiene) Regulations 1995[6];**

**"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;**

**"third country" means any country or territory which is not part of the customs territory of the European Community;**

**"unitary authority" means an authority in England which is the sole principal council for its local government area.**

**(2) In these Regulations, unless the context otherwise requires, a reference -**

**(a) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;**

**(b) in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number; and**

**(c) in a paragraph to a numbered or lettered sub-paragraph is to the sub-paragraph in that paragraph bearing that number or letter.**

### **Scope of these 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[7], in that country and -**

**(a) unless sub-paragraph (b) applies, when it arrives in Great Britain it is not in free circulation in member States;**

**(b) it arrives in Great Britain from another part of the British Islands[8], having been -**

**(i) under customs charge in that part of the British Islands, and**

**(ii) sent to a place of destination in Great Britain 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 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 Great Britain from a third country any food intended for sale for human consumption (which is not an exempt product of animal origin) which -**

**(a) fails to comply with food safety requirements, or**

**(b) is unsound or unwholesome.**

#### **Enforcement responsibilities**

**5. - (1) Subject to paragraphs (2) and (4), each food authority shall enforce and execute these Regulations within their area.**

**(2) Where -**

**(a) food from a third country has entered into the British Islands at a part of Great Britain which is in the area of a particular food authority;**

**(b) customs examination of that food has been completed or has been deferred until the food reaches its place of destination elsewhere in the United Kingdom;**

**(c) an authorised officer of that particular food authority considers it reasonable that examination of the food -**

**(i) for the purposes of these Regulations should be deferred until the food arrives at a specified place of destination elsewhere in Great Britain, or**

**(ii) should take place under Regulations with respect to imported food in force in Northern Ireland when the food arrives at a specified place of destination in Northern Ireland; 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 its specified place of destination and is available there for examination under these Regulations or, as the case may be, Regulations with respect to imported food in force in Northern Ireland,**

**the food authority for the area in which the specified place of destination is located, if in Great Britain, shall become responsible for enforcing and executing these**

**Regulations with respect to that food once it arrives at that place.**

**(3) Where an authorised officer of a food authority authorises the transfer of any food to another part of the United Kingdom for examination at the place of destination for that food either under these Regulations or, if that place is in Northern Ireland, under Regulations in force with respect to imported food in Northern Ireland, he shall**

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**(a) notify by the most expeditious means available the food authority or, in Northern Ireland, the district council 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 authority or council a copy of the undertaking in writing, referred to in paragraph (2)(d), which he has been given by a person importing the food.**

**(4) Where food has been sent to a place of destination in Great Britain for examination under these Regulations from another part of the British Islands, the food authority for the area 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 Great Britain.**

**Examination of food by a food authority**

**6. - (1) Where an authorised officer of a food authority 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 area of his food authority, 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 of a food authority 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 analyzed 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 food authority 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 of a food authority has given a person a notice**

**under paragraph (3) forbidding the removal of specified food, that food shall not, prior to the completion of the examination of it by an authorised officer of the food authority, 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 food authority 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 food authority 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 magistrates' court or, in Scotland, to the sheriff, who 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 of a food authority that a batch, lot or consignment of food fails to comply with the 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 in Great Britain 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 magistrates' court or, in Scotland, to the sheriff, who may cancel or affirm that notice.**

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

**(5) By virtue of this paragraph but subject to paragraph (6), section 9 of the Act (inspection and seizure of suspected food) shall apply with respect to food intended for human consumption which -**

- (a) is or has been imported into Great Britain 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 that section 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, section 9 of the Act shall apply with the following modification, that is to say that the reference in subsection (5)(a) to section 7 or 8 of the Act shall be construed as a reference to these Regulations.**

#### **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 certain provisions of the Act**

**9. - (1) The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of sections 8, 14 and 15 of the Act, and unless the context otherwise requires, a reference in them to the Act shall for the purposes of these Regulations be construed as a reference to these Regulations -**

- (a) section 2 (extended meaning of "sale" etc.);**
- (b) section 3 (presumptions 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 33 (obstruction etc. of officers);**
- (f) section 34 (time limit for prosecutions);**
- (g) section 36 (offences by body corporate), subject to the following modifications -**
  - (i) after the words "body corporate", at the three places where they occur in section 36(1) of the Act, there shall be inserted the words "or Scottish partnership", and**
  - (ii) for the word "secretary" there shall be substituted the words**

**"secretary, partner";**

**(h) section 44 (protection of officers acting in good faith).**

**(2) Section 8(2) of the Act (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 Act, and the reference in the said section 8(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, section 8(3) of the Act (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 this section and section 9 below shall be construed as a reference to these Regulations.**

**(4) For the purposes of these Regulations, section 30 of the Act (analysis etc. of samples) shall apply with the following modifications -**

**(a) in subsection (1)(a), for the words from "either" to "of the authority" there shall be substituted the words "by a public analyst";**

**(b) subsection (3) shall be omitted; and**

**(c) the reference in subsection (8) to the Act 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. The following provisions are hereby revoked -**

**(a) Regulations 6 to 11, 15 to 19 and 21 to 23 of the Imported Food Regulations 1984[2]; and**

**(b) Regulations 6 to 11, 15 to 19 and 21 to 23 of the Imported Food (Scotland) Regulations 1985[10].**

***Jeff Rooker***

**Minister of State Ministry of Agriculture, Fisheries and Food**

**23rd October 1997**

**Signed by authority of the Secretary of State for Health**

*Tessa Jowell*

**Minister of State for Public Health Department of Health**

**20th October 1997**

**Signed by authority of the Secretary of State for Wales**

*Win Griffiths*

**Parliamentary Under Secretary of State Welsh Office**

**22nd October 1997**

*Sam Galbraith*

**Parliamentary Under Secretary of State Scottish Office**

**22nd October 1997**

## **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 ratites, 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, fishmeal, 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 the following definition -**

**" "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<sup>[11]</sup>;"**

**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 the words "bulk foodstuffs" there shall be inserted the words "subject to sub-paragraphs (3) and (4)"; and**

**(b) for the word "granular" there shall be substituted the word "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 the following sub-paragraphs -**

**" (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 paragraph (a) above, the three previous cargoes transported in the tanks shall have been foodstuffs or from the list of acceptable previous cargoes for liquid 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 the following paragraph -**

**" 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) of this Chapter 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 food authority with the documentary evidence described in sub-paragraphs (1) and (2)."**

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#### **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 Great Britain which are not in free circulation within the European Community. They replace the general provisions of the Imported Food Regulations 1984 and the Imported Food (Scotland) Regulations 1985 with a new set of provisions, which apply to the whole of Great Britain, for all food other than specified exempt products of animal origin. The Regulations also contain amendments to the Food Safety (General Food Hygiene) Regulations 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 (OJ 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 stipulates which authorities are to enforce these 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 these Regulations. It includes a requirement that the importer must provide all such facilities as the authorised officer of the food authority 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 food authority to permit the import of such food for purposes other than human consumption. Alternatively, the food authority may seek to have such food destroyed in accordance with established Food Safety Act 1990 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 Act 1990.**

**Regulation 10 and Schedule 2 cover amendments to the Food Safety (General Food Hygiene) Regulations 1995. These amendments implement a corrigendum (OJ No. L 208, 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. The provisions revoked are listed in that regulation.**

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*Notes:*

**[1] 1990 c.16; section 6(4) of the 1990 Act was amended by section 31 of and paragraph**

**6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40). See section 4(1) of the 1990 Act which contains a definition of "the Ministers" which is relevant to the powers being exercised in the making of these Regulations.**

**[2] 1972 c. 9 (N.I.).**

**[3] S.I. 1992/3163; the relevant amending instrument is S.I. 1994/2783.**

**[4] 1994 c. 39.**

**[5] S.I. 1995/1763; there are no relevant amending instruments.**

**[6] S.I. 1995/3205.**

**[7] See Council Regulation (EEC) No. 2193/92 establishing the Community Customs Code (OJ No. L 302, 19.10.92, p.1), Title II, Chapter 2 (Origin of Goods).**

**[8] "British Islands" means the United Kingdom, the Channel Islands and the Isle of Man; see section 5 of and Schedule 1 to the Interpretation Act 1978 (c.30).**

**[9] S.I. 1984/1918; amended by S.I. 1990/2371 and 2486.**

**[10] S.I. 1985/913; amended by S.I. 1990/2625.**

**[11] OJ No. L 21, 27.1.96, p. 42.**

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