

Statutory Instrument 1994 No. 2783

The Food Safety (Fishery Products) (Import Conditions and Miscellaneous Amendments) Regulations 1994

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STATUTORY INSTRUMENT

1994No. 2783

FOOD

FOOD SAFETY

The Food Safety (Fishery Products) (Import Conditions and Miscellaneous Amendments) Regulations 1994

Made 31st October 1994

Laid before Parliament 31st October 1994

Coming into force 21st November 1994

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(3), 48(1) and 49(2) of, and paragraphs 2, 5(1) and (2), 6(1) and 7(1) of Schedule 1 to, the Food Safety Act 1990^[1], and the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, being

Ministers designated^[2] for the purposes of section 2(2) of the European Communities Act 1972^[3] in relation to the common agricultural policy of the European Community, in the exercise of the powers conferred on them by the said section 2(2), and in each case in exercise of all other powers respectively enabling them in that behalf, after consultation (so far as is required by 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 Food Safety (Fishery Products) (Import Conditions and Miscellaneous Amendments) Regulations 1994 and shall come into force on 21st November 1994.

Interpretation

2.

—(1) In these Regulations, unless the context otherwise requires—

"approved import conditions" means the conditions for the importation of fishery products which are laid down in any Commission Decision listed in Schedule 1;

"aquaculture products" has the same meaning as in the principal Regulations;

"bivalve molluscs" has the same meaning as in the principal Regulations;

"consignment", except in the expression "private consignment", has the same meaning as in the principal Regulations;

"the Council and Commission Decisions" means the Council and Commission Decisions listed in Schedule 2;

"the Council Directive" means Council Directive 91/493/EEC^[4] of 22nd July 1991 laying down the health conditions for the production and placing on the market of fishery products, as adapted for the purposes of the EEA Agreement^[5];

"the Derogations Regulations" means the Food Safety (Fishery Products) (Derogations) Regulations 1992^[6];

"the Docks and Carriers Regulations" means the Food Hygiene (Docks, Carriers etc.) Regulations 1960^[7];

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992^[8] as adjusted by the Protocol signed at Brussels on 17th March 1993^[9];

"EEA State" means a State which is a Contracting Party to the EEA Agreement, but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein^[10];

"factory vessel" has the same meaning as in the principal Regulations;

"fishery products" has the same meaning as in the principal Regulations;

"the Fishing Vessels Directive" means Council Directive 92/48/EEC^[11] of 16th June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with article 3(1)(a)(i) of the Council Directive;

"import" means import into Great Britain, but only if the product in question is not imported from another part of the British Islands^[12];

"the Import and Export Regulations" means the Products of Animal Origin (Import and Export) Regulations 1992^[13];

"the Live Bivalve Molluscs Directive" means Council Directive 91/492/EEC^[14] of 15th July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs, as adapted for the purposes of the EEA Agreement^[15];

"local authority" has the same meaning as in the Import and Export Regulations;
"other shellfish" has the same meaning as in the principal Regulations;
"the principal Regulations" means the Food Safety (Fishery Products) Regulations 1992^[16];
"private consignment" means a quantity of fishery products which are—
 (a) imported as trade samples; or
 (b) not being imported by way of trade, and which—
 (i) form part of a traveller's personal luggage, or
 (ii) have been sent to a person, other than a body of persons corporate or unincorporate, in Great Britain;
"processed" has the same meaning as in the principal Regulations;
"the Safeguards against Cholera Regulations" means the Imported Food and Feedingstuffs (Safeguards against Cholera) Regulations 1991^[17];
"third country" means any country or territory which is not part of the European Economic Area including, until the EEA Agreement comes into force in relation to Liechtenstein, the State of Liechtenstein.

- (2) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered Chapter is to the Chapter in the Annex to the Council Directive bearing that number;
 - (b) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
 - (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
 - (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

General restriction on importing fishery products

3.

—(1) Subject to paragraphs (2) and (3), no person shall import any fishery products which are for human consumption, unless—

- (a) except where paragraph (b) or (c) applies, they are products in respect of which all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive (allowing for any derogations which have been granted from the conditions set out in those Directives) and the Council and Commission Decisions are satisfied;
- (b) if they originate in a third country (including products taken from the sea and then landed in Great Britain by the vessel of a third country)^[18], then unless paragraph (c) applies, they are products in respect of which the requirements specified in Schedule 3 are satisfied;
- (c) if they are products in respect of which two or more countries have been concerned with their production—
 - (i) where they have undergone any process or operation in an EEA State or on board a vessel of an EEA State, all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive (allowing for any derogations which have been granted from the conditions set out in those Directives) and the Council and Commission Decisions which relate to that process or operation are satisfied, and
 - (ii) where they have undergone any process or operation in a third country or on board a vessel of a third country, the requirements specified in Schedule 3 which relate to that process or operation are satisfied; and
- (d) any additional conditions imposed under regulation 4 are satisfied,

in relation to those fishery products which he imports.

(2) Paragraph (1) shall not apply to a person importing a private consignment—

(a) from a country or territory within the European Community, unless that consignment is a consignment of trade samples which weighs more than 10 kilograms; or

(b) from any other country or territory, if that consignment weighs 1 kilogram or less.

(3) Paragraphs 1 to 6 of Schedule 3 shall not apply to aquaculture products.

Additional conditions relating to certain third country imports

4.

—(1) Subject to paragraphs (3) and (4), no person shall import any fishery products which are for human consumption—

(a) from a third country;

(b) from another country or territory within the European Community if those fishery products do not originate from within the European Economic Area, unless those products were in free circulation in that country or territory within the European Community;

(c) from an EEA State which is not also a member State, unless those fishery products originate from within the European Economic Area, unless the conditions specified in paragraph (2) are satisfied in relation to those fishery products which he imports.

(2) The conditions referred to in paragraph (1) are that—

(a) except in the circumstances set out in sub-paragraph (b), the fishery products comprise or are part of a consignment which is accompanied by a duly completed health certificate which—

(i) comprises a single sheet,

(ii) is drawn up in English and, where appropriate, in an official language of the country or territory for which those fishery products are destined,

(iii) contains the information mentioned in the specimen health certificate set out in the Annex to Commission Decision 93/185/EEC of 15th March 1993^[19] laying down certain transitional measures concerning the certification of fishery products from third countries in order to facilitate the switchover to the arrangements laid down in the Council Directive, and

(iv) contains the health attestation mentioned in that specimen health certificate, duly signed and dated by an official inspector duly appointed by the competent authority of the state of origin of those fishery products;

(b) a person importing fishery products in circumstances where—

(i) those fishery products originate in a third country in respect of which the European Commission has adopted approved import conditions, and

(ii) those approved import conditions relate to those fishery products, shall import those fishery products in accordance with those approved import conditions.

(3) Fishery products which—

- (a) originate in a third country;
- (b) were caught in their natural environment; and
- (c) have not or had not been on land prior to their importation into the European Community,

need not be accompanied by any health certificate which would otherwise be required under paragraph (2).

(4) Paragraph (1) shall not apply to a person importing a private consignment, if that consignment weighs 1 kilogram or less.

Amendment of the Food Hygiene (Scotland) Regulations 1959

5.

—(1) In paragraph (2) of regulation 13 of the Food Hygiene (Scotland) Regulations 1959^[20] (treatment of certain foods), after sub-paragraph (f) there shall be inserted the following sub-paragraph—

"(g) cooked and chilled crustacean or molluscan shellfish products to which the Food Safety (Fishery Products) Regulations 1992 apply." .

(2) After regulation 31 of the Food Hygiene (Scotland) Regulations 1959 (exemptions), there shall be inserted the following regulation—

"Fishery products exceptions

31A. Regulations 6, 9, 11, 12, 17, 18, 20 to 25, 27 to 29 and 30(1), (3) and (4) shall not apply to or to a person at—

- (a) an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations; or
- (b) a market registered under regulation 13 of those Regulations." .

Amendment of the Docks and Carriers Regulations

6.

—(1) In regulation 4 of the Docks and Carriers Regulations (premises and places to which the Regulations apply), for the words "Subject to regulation 4A," there shall be substituted the words "Subject to regulations 4A and 4B,".

(2) After the regulation 4A of the Docks and Carriers Regulations inserted by regulation 27 of the Fresh Meat (Hygiene and Inspection) Regulations 1992^[21] (fresh meat exception), the following regulation shall be substituted for the regulation 4A of the Docks and Carriers Regulations inserted by regulation 21(2) of the principal Regulations (exceptions for premises and places where fishery products are handled)—

"Fishery products exceptions

4B.—(1) Regulations 6, 9 and 11 to 23 of these Regulations shall not apply to or to a person at an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations.

(2) Regulations 6, 9 and 12 to 23 of these Regulations shall not

apply to or to a person at a market registered under regulation 13 of the Food Safety (Fishery Products) Regulations 1992." .

Amendment of the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966

7. For regulation 2A of the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966^[22] (places where fishery products are handled) there shall be substituted the following regulation—

"Fishery products exceptions

2A. These Regulations shall not apply to or to a person at—
(a) an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations; or
(b) a market registered under regulation 13 of those Regulations."

Amendment of the Food Hygiene (General) Regulations 1970

8.

—(1) For regulation 3A of the Food Hygiene (General) Regulations 1970^[23] (exception for premises where fishery products are handled) there shall be substituted the following regulation—

"Fishery products exceptions

3A.—(1) Regulations 7, 8, 10 to 12 and 14 to 26 shall not apply to or to a person at an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations.

(2) Regulations 7, 8, 10, 12 and 14 to 26 shall not apply to or to a person at a market registered under regulation 13 of the Food Safety (Fishery Products) Regulations 1992."

(2) In sub-paragraph (bb) of paragraph (2) of regulation 27 of the Food Hygiene (General) Regulations 1970^[24], after the words "shellfish products" there shall be inserted the words "to which the Food Safety (Fishery Products) Regulations 1992 apply".

Amendment of the Safeguards against Cholera Regulations

9. The amendments to the Safeguards against Cholera Regulations set out in Schedule 4 shall have effect.

Amendment of the Derogations Regulations

10. The amendments to the Derogations Regulations set out in Schedule 5 shall have effect.

Amendment of the Imported Food (Bivalve Molluscs and Marine Gastropods from Japan) Regulations 1992

11. In paragraph (2) of regulation 1 of the Imported Food (Bivalve Molluscs and Marine Gastropods from Japan) Regulations 1992^[25] (interpretation), for the definition of "relevant bivalve mollusc or marine gastropod" there shall be substituted the following definition—

"relevant bivalve mollusc or marine gastropod" means any bivalve mollusc or marine gastropod originating in Japan which is not a frozen or processed

bivalve mollusc of the family Pectinidae;" .

Amendment of the principal Regulations

12. The amendments to the principal Regulations set out in Schedule 6 shall have effect.

Amendment of the Food Safety (Fishery Products on Fishing Vessels) Regulations 1992

13. After paragraph (2) of regulation 7 of the Food Safety (Fishery Products on Fishing Vessels) Regulations 1992^[26] there shall be inserted the following paragraph—

" (3) Section 32 of the Food Safety Act 1990 (powers of entry) shall apply for the purposes of these Regulations as though—

(a) any reference to premises included a reference to a fishing vessel (in so far as it does not already do so^[27]); and

(b) any reference to the occupier included a reference to the master or other person in charge of the fishing vessel (in so far as it does not already do so)." .

Amendment of the Import and Export Regulations

14. The amendments to the Import and Export Regulations set out in Schedule 7 shall have effect.

Enforcement and penalties

15. For the purposes of the Import and Export Regulations—

(a) the conditions set out in regulations 3 and 4 shall be treated as health conditions (whether or not they are health conditions, as defined in the Import and Export Regulations^[28]); and

(b) those conditions shall be enforced as health conditions—

(i) by a local authority or the Minister (or by an authorised officer of the local authority or the Minister), whichever has the responsibility under the Import and Export Regulations for enforcing health conditions in the particular circumstances of the case,

(ii) in accordance with the procedures set out in the Import and Export Regulations, and

(iii) subject to the penalties and other sanctions set out in the Import and Export Regulations.

Revocations

16. The following provisions are hereby revoked—

(a) regulation 2(2)(a), (7) to (10) and (12) to (14) of the Imported Food and Feedingstuffs (Safeguards against Cholera) (Amendment) Regulations 1992^[29];

(b) regulations 21, 22, 23(1) and 24 of the principal Regulations.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on
31st October 1994.

William Waldegrave

Minister of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health

Cumberlege

Parliamentary Under Secretary of State
Department of Health

24th October 1994

John Redwood

Secretary of State for Wales

26th October 1994

Sir Hector Monro

Parliamentary Under Secretary of State
Scottish Office

31st October 1994

Notes:

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

[2] S.I. 1972/1811. [back](#)

[3] 1972 c. 68. [back](#)

[4] .OJ No. L 268, 24.9.91, p.15 [back](#)

[5] *See* paragraph 24 of the basic texts in Annex I to the EEA Agreement. [back](#)

[6] S.I. 1992/1507. [back](#)

[7] S.I. 1960/1602; the relevant amending instruments are S.I. 1990/2486 and 1992/3163. [back](#)

[8] OJ No. L 1, 3.1.94, p.3. [back](#)

[9] OJ No. L 1, 3.1.94, p.572. [back](#)

[10] *See* article 1(2) of the Protocol Adjusting the Agreement on the European Economic Area. [back](#)

[11] OJ No. L 187, 7.7.92, p.41. [back](#)

[12] "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). [back](#)

[13] S.I. 1992/3298. [back](#)

[14] OJ No. L 268, 24.9.91, p.1. [back](#)

[15] *See* paragraph 25 of the basic texts in Annex I to the EEA Agreement. [back](#)

[16] S.I. 1992/3163. [back](#)

[17] S.I. 1991/2486, amended by S.I. 1991/2934 and S.I. 1992/2364. [back](#)

[18] *See* Council Regulation (EEC) No. 802/68 on the Common Definition of the Concept of the Origin of Goods, and protocol 4 to the EEA Agreement as amended by the Decision of the EEA Joint Committee No. 6/94 amending protocol 4 to the EEA Agreement, on rules

of origin (OJ No. L 95, 14.4.94, p.22). [back](#)

[19] OJ No. L 79, 1.4.93, p.80. [back](#)

[20] S.I. 1959/413; amended by S.I. 1959/1153, 1961/622, 1966/976 and 1978/173. [back](#)

[21] S.I. 1992/2037. [back](#)

[22] S.I. 1966/791; the relevant amending instrument is S.I. 1992/3163. [back](#)

[23] S.I. 1970/1172; the relevant amending instrument is S.I. 1992/3163. [back](#)

[24] The relevant amending instrument is S.I. 1992/3163. [back](#)

[25] S.I. 1992/1601. [back](#)

[26] S.I. 1992/3165. [back](#)

[27] *See* the definition of "premises" in section 1(3) of the Food Safety Act 1990, and the transitional provision contained in paragraph 1 of Schedule 4 to the 1990 Act. No orders have yet been made under section 1(3) of the 1990 Act. [back](#)

[28] *See* regulation 1(2) of those Regulations. [back](#)

[29] S.I. 1992/2364. [back](#)