

Statutory Instrument 1994 No. 2782

The Food Safety (Live Bivalve Molluscs and Other Shellfish) (Import Conditions and Miscellaneous Amendments) Regulations 1994

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STATUTORY INSTRUMENTS

1994No. 2782

FOOD FOOD SAFETY

The Food Safety (Live Bivalve Molluscs and Other Shellfish) (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(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 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 (Live Bivalve Molluscs and Other Shellfish) (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 live bivalve molluscs and other shellfish which are laid down in a Commission Decision mentioned in Schedule 1;

"aquaculture products" has the same meaning as in the Food Safety (Fishery Products) Regulations 1992^[4];

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

"the Council Directive" means Council Directive 91/492/EEC of 15th July 1991, laying down the health conditions for the production and the placing on the market of live bivalve molluscs^[5], as adapted for the purposes of the EEA Agreement^[6];

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

"the Derogations Regulations" means the Food Safety (Live Bivalve Molluscs) (Derogations) Regulations 1992^[7];

"designated bivalve production area" has the same meaning as in the principal Regulations;

"dispatch centre" has the same meaning as in the principal Regulations;

"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];

"import" means import into Great Britain, but only if the product in question is not imported from another part of the British Islands^[11];

"the Import and Export Regulations" means the Products of Animal Origin (Import and Export) Regulations 1992^[12];

"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 (Live Bivalve Molluscs and Other Shellfish) Regulations 1992^[13];

"private consignment" means a quantity of live bivalve molluscs or other shellfish 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;

"production area" has the same meaning as in the principal Regulations;

"purification centre" has the same meaning as in the principal Regulations;

"relaying" has the same meaning as in the principal Regulations;

"relaying area" has the same meaning as in the principal Regulations;
"the Reference Laboratories Decision" means Council Decision 93/383/EEC on reference laboratories for the monitoring of marine biotoxins^[14];
"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 live bivalve molluscs or other shellfish

3.—(1) Subject to paragraph (2), no person shall import any live bivalve molluscs or other shellfish which are for human consumption, unless (without prejudice to any restrictions imposed under the Fish Health Regulations 1992^[15] or the Shellfish and Specified Fish (Third Country Imports) Order 1992^[16])—

- (a) they are products in respect of which—
 - (i) unless head (ii) applies, all applicable requirements of the Council Directive (allowing for any derogations which have been granted from the conditions set out in the Council Directive) and the Reference Laboratories Decision are satisfied, or
 - (ii) if they originate in a third country^[17], the requirements specified in Schedule 2 are satisfied; and
- (b) any additional conditions imposed under regulation 4 are satisfied,

in relation to those live bivalve molluscs or other shellfish 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.

Additional conditions in relation to certain third country imports

4.—(1) Subject to paragraph (3), no person shall import any live bivalve molluscs or other shellfish which are for human consumption—

- (a) from a third country;
- (b) from a country or territory within the European Community if those live bivalve molluscs or other shellfish 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 live bivalve molluscs or other shellfish originate from within the European Economic Area,

unless the conditions specified in paragraph (2) are satisfied in relation to those live bivalve molluscs or other shellfish 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 live bivalve

molluscs or other shellfish comprise or are part of a consignment which is accompanied by a duly completed certificate which—

- (i) comprises a single sheet,
 - (ii) is drawn up in English and, where appropriate, in an official language of a country or territory for which those live bivalve molluscs or other shellfish are destined,
 - (iii) contains the information mentioned in the specimen health certificate set out in Schedule 3, and
 - (iv) contains the health attestation mentioned in that certificate, duly signed and dated by an official inspector duly appointed by the competent authority of the state of origin of those bivalve molluscs or other shellfish;
- (b) a person importing live bivalve molluscs or other shellfish in circumstances where—
- (i) those live bivalve molluscs or other shellfish 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 live bivalve molluscs or other shellfish;
- shall import those live bivalve molluscs or other shellfish in accordance with those approved import conditions.

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

Amendment of the principal Regulations

5. The amendments to the principal Regulations set out in Schedule 4 shall have effect.

Enforcement and penalties

6. For the purposes of the Import and Export Regulations—
- (a) the requirements 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^[18]) 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.

Transitional provision

7. Regulation 4(2)(a) shall not apply in relation to any live bivalve molluscs or other shellfish which left their country of origin before 21st February 1995.

Revocation

8. Paragraph (3) of regulation 22 of the principal Regulations (amendment of Regulations) is hereby revoked.

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

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

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

[7] S.I. 1992/1508. [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] "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](#)

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

[13] S.I. 1992/3164. [back](#)

[14] OJ No. L 166, 8.7.93, p. 31. [back](#)

[15] S.I. 1992/3300; amended by S.I. 1993/2255 and 1994/1448. [back](#)

[16] S.I. 1992/3301. [back](#)

[17] 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](#)

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

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