

EUROPEAN COMMUNITIES (QUICK-FROZEN FOODSTUFFS) REGULATIONS 1992

I, JOE WALSH, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive 89/108/EEC of 21 December 1988*, hereby make the following regulations:

REG 1

1. These Regulations may be cited as the European Communities (Quick-frozen Foodstuffs) Regulations, 1992.

REG 2

2. (1) In these Regulations:

"authorised officer" has the meaning assigned to it by Regulation 11;

"Council Directive" means Council Directive 89/108/EEC of 21 December 1988*;

"the Minister" means the Minister for Agriculture and Food;

"quick-frozen foodstuffs" means foodstuffs for human consumption which

(a) have undergone a suitable freezing process known as "quick-freezing" whereby the zone of maximum crystallisation is crossed as rapidly as possible, depending on the type of product, and the resulting temperature of the product (after thermal stabilisation) is continuously maintained at a level of -18°C or lower at all points, and

(b) are marketed in such a way as to indicate, in accordance with these Regulations, that they possess this characteristic.

(2) A word or expression that is used in these Regulations and is also used in the Council Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in that Directive.

*O.J. No. L 40/34, 11 February 1989.

REG 3

3. For the purposes of these Regulations, ice cream and other edible ices shall not be regarded as quick-frozen foodstuffs.

REG 4

4. These Regulations shall apply without prejudice—

(a) to the Community provisions relating to—

(i) the common organisation of markets in the agricultural and fisheries sectors, and

(ii) veterinary hygiene,

and

(b) to any law enacted, act done or measure adopted within the State for the purposes of any of those provisions.

REG 5

5. (1) Quick-frozen foodstuffs as defined in Regulation 2 may not be marketed unless they comply with the terms of these Regulations.
- (2) Raw materials shall not be used in the manufacture of quick-frozen foodstuffs unless they are fresh and of sound, genuine and merchantable quality.
- (3) The preparation and quick-freezing shall be carried out promptly, using appropriate technical equipment, in order to limit chemical, biochemical and microbiological changes to a minimum.

REG 6

6. (1) Air, nitrogen and carbon dioxide are hereby authorised as the only cryogenic media for use in direct contact with quick-frozen foodstuffs: provided that dichlorodifluoromethane (R 12) may continue to be used as a cryogenic medium until 31 December, 1992.
- (2) The purity criteria to be satisfied by these cryogenic media shall be determined, as far as necessary, in accordance with the procedure laid down in Article 12 of the Council Directive.

REG 7

7. (1) The temperature of quick-frozen foodstuffs shall be kept stable and maintained throughout the entire product concerned, at -18°C or lower, with the exception that the temperature of quick-frozen foodstuffs may briefly fluctuate upwards by not more than 3°C during transport.
- (2) Notwithstanding paragraph (1) of this Regulation, in accordance with good storage and distribution practice, temperature tolerances may be permitted for quick-frozen foodstuffs during local distribution, that is, distribution to the point of retail sale and in retail display cabinets subject to the following conditions—
 - (a) these tolerances shall not exceed 3°C ;
 - (b) tolerances of up to 6°C shall however be permissible until 10 January, 1997.

REG 8

8. Quick-frozen foodstuffs for supply to the ultimate consumer shall be packed by the manufacturer or where the manufacturer is not the packer by the packer in suitable pre-packaging which protects such foodstuffs from microbial or other forms of contamination and against drying.

REG 9

9. (1) The European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations, 1982 to 1991, shall apply to products covered by these Regulations and intended for supply without further processing to the ultimate consumer and to restaurants, hospitals, canteens or other similar mass caterers, subject to the conditions set out in paragraph (2) of this Regulation.
- (2) The conditions to which paragraph (1) of this Regulation relates

are:

- (a) the word "quick-frozen" shall be added to the sales name,
- (b) in addition to the date of minimum durability, there shall be indicated on the packaging, container or wrapper or on a label attached to the product the period during which the quick-frozen foodstuffs concerned may be stored by the purchaser and either or both the storage temperature and type of storage equipment required,
- (c) the labelling shall include a reference from which the batch may be identified, and shall clearly include the words "do not refreeze after defrosting" or words of similar effect.

REG 10

10. In the case of quick-frozen foodstuffs to which Regulation 9 of these Regulations does not apply, the labelling of such foodstuffs shall contain the following particulars:

- (a) the sales name supplemented by the words "quick-frozen",
 - (b) the net quantity expressed in units of mass,
 - (c) a reference enabling the batch to be identified,
 - (d) the name or business name and the address of the manufacturer or packer or of a seller established within a Member State of the European Communities,
- and those particulars shall appear on the packaging, container or wrapping, or on a label attached to the product.

REG 11

11. (1) In this Regulation, "authorised officer" means—

- (a) in relation to premises and the means of transport to which the provisions set out in the Schedule to these Regulations apply, a veterinary inspector or other officer of the Minister for Agriculture and Food authorised for the purposes of those provisions,
- (b) in relation to premises to which the Abattoirs Act, 1988, applies, a veterinary inspector appointed by a local authority or an officer appointed by the Minister for Agriculture and Food or a local authority as an authorised officer for the purposes of that Act,
- (c) in relation to all other premises and means of transport and for all other purposes of these Regulations, an officer authorised by the Minister for Health or an authorised officer within the meaning of the Food Hygiene Regulations, 1950 to 1989, or an officer of the Minister for Industry and Commerce designated by the Director of Consumer Affairs.

(2) An authorised officer when exercising any power conferred on an authorised officer by these Regulations shall, if so requested by a person affected, produce for inspection by that person a document of his authority issued under the provisions set out in the schedule to these Regulations, or the Act or Regulations, as the case may be, referred to in the definition of "authorised officer" in paragraph (1), a certificate of the Director of Consumer Affairs that he is an officer of the Minister for Industry and Commerce designated by the Director or a certificate of the Minister or the Minister for Health, as the case may be, that he is an authorised officer for the purposes of these Regulations.

(3) A document produced by a person purporting to be a document or

certificate of a kind referred to in paragraph (1) shall be received in evidence as such without further proof, unless the contrary is shown.

(4) A person who obstructs or interferes with an authorised officer in the course of exercising a power conferred on him by these Regulations or fails or refuses to comply with a request made by or to answer a question asked by such officer pursuant to these Regulations shall be guilty of an offence.

REG 12

12. (1) An authorised officer shall comply with such directions as may be given to him from time to time by the Minister in relation to the exercise of his functions under these Regulations.

(2) An authorised officer may at all reasonable times enter—

(a) any premises in which he has reasonable grounds for believing that any foodstuffs to which these Regulations relate are kept, sold or being manufactured, or

(b) any railway wagon, vehicle, ship, vessel or aircraft in which he has reasonable grounds for believing that any foodstuffs to which these Regulations relate are being transported for sale or kept for sale,

and there or at any other place—

(i) inspect and take copies of or extracts from any books, documents or other records which he finds in the course of his inspection, and

(ii) make such examinations, tests and inspections, and

(iii) take such samples,

as he may consider appropriate for the purposes of the Council Directive and these Regulations.

(3) Where a sample is taken pursuant to this Regulation, the authorised officer concerned shall divide the sample into not more than four approximately equal parts each of which he shall mark in such a way as to identify it as part of the sample taken by him and he shall send or cause to be sent one or more of such parts for examination and testing.

(4) Where an authorised officer takes a sample which consists or appears to consist of predivided foodstuffs and the division of the sample into parts—

(a) is not reasonably practicable, or

(b) might affect the composition or impede the proper analysis of the contents,

the authorised officer shall divide the sample into not more than four lots each of which he shall mark in such a way as to identify it as a part of the sample taken by him and he shall send or cause to be sent one or more of such lots for examination and testing.

(5) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on, a sample taken pursuant to paragraph (2), (3) or (4) of this Regulation shall not be adduced unless before the proceedings were instituted one of the parts or lots, as the case may be, into which the sample was divided pursuant to this Regulation was left with or transmitted to the defendant.

(6) A person in charge of premises or of a railway wagon, vehicle,

ship, vessel or aircraft shall—

(a) afford to an authorised officer such facilities and assistance as are reasonably necessary to enable the officer to perform his functions under this Regulation,

(b) produce to an authorised officer any books, documents or other records which he may reasonably require,

(c) give to an authorised officer any information which he may reasonably require regarding—

(i) any foodstuffs on the premises or in the wagon, vehicle, ship, vessel or aircraft, or

(ii) any books, documents or other records produced to him pursuant to this Regulation.

(7) In pursuance of Regulation 7, the authorised officer shall ensure that the sampling procedure and any method of analysis adopted by him comply with the provisions of any relevant Directive of the Commission of the European Communities.

REG 13

13. (1) Any person who contravenes a provision of these Regulations shall be guilty of an offence.

(2) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,000, or at the discretion of the Court to imprisonment for a term not exceeding 12 months or to both.

(3) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other officer of the body corporate, the director, manager, secretary or other officer or any person purporting to act in such capacity shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(4) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under these Regulations may be instituted within 12 months from the date of the offence.

REG 14

14. An offence under these Regulations may be prosecuted by the Minister, by the Minister for Health, the Minister for the Environment, the Director of Consumer Affairs, or by a health board, the council of a county or the corporation of a county borough in whose functional area the offence was committed.

SCHEDULE

Slaughter of Cattle and Sheep Act, 1934 (No. 42 of 1934).

Slaughter of Animals Acts, 1935 and 1988.

Pigs and Bacon Acts, 1935 to 1988.

Abattoirs Act, 1988 (No. 8 of 1988).

Agricultural Produce (Fresh Meat) Acts, 1930 to 1988.

European Communities (Egg Products) Regulations, 1991 (S.I. No. 293 of 1991).

European Communities (Fresh Poultry Meat) Regulations, 1976 to 1988.
European Communities (Fresh Meat) Regulations, 1987 and 1989 (S.I.
No. 284 of 1989; S.I. No. 66 of 1989).

77/99/EEC: Council Directive of 21 December 1976 on health problems affecting intra-Community trade in meat products. 83/201/EEC: Commission Directive of 12 April 1983 establishing exceptions from Council Directive 77/99/EEC for certain products which contain other foodstuffs and only a small percentage of meat or meat product. 88/657/EEC: Council Directive of 14 December 1988 laying down the requirements for the production of, and trade in, minced meat, meat in pieces of less than 100 grams and meat preparations and amending Directives 64/433/EEC, 71/118/EEC and 72/462/EEC. 91/495/EEC: Council Directive of 27 November 1990 concerning public health and animal health problems affecting the production and placing on the market of rabbit meat and farmed game meat. 72/462/EEC: Council Directive of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries. 91/497/EEC: Council Directive of 29 July 1991 amending and consolidating Directive 64/433/EEC on health problems affecting intra-Community trade in fresh meat to extend it to the production and marketing of fresh meat. 91/498/EEC: Council Directive of 29 July 1991 on the conditions for granting temporary and limited derogation from specific Community health rules on the production and marketing of fresh meat. 92/5/EEC: Council Directive of 10 February 1992 amending and updating Directive 77/99/EEC on health problems affecting intra-Community trade in meat products and amending Directive 64/433/EEC.

GIVEN under my Official Seal this 9th day of October, 1992.
JOE WALSH,
Minister for Agriculture and Food.

EXPLANATORY NOTE.

These Regulations give effect to Council Directive 89/108/EEC on the approximation of the laws of Member States relating to quick-frozen foodstuffs for human consumption. These Regulations apply only to foodstuffs which have undergone the quick-freezing process as specified and are marketed in such a way as to indicate that they possess this characteristic. The temperatures at which quick-frozen foodstuffs shall be distributed and stored and the appropriate labelling requirements and enforcement procedures are set out in the Regulations.

These Regulations should be read together with the Council Directive.