

European Communities (Hygiene of Foodstuffs) Regulations, 2000

I, Micheál Martin, Minister for Health and Children, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive 93/43/EEC¹ of 14 June 1993 on the hygiene of foodstuffs, Commission Directive 96/3/EC² of 26 January 1996 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, and Commission Directive 98/28/EC³ of 29 April 1998 granting a derogation from certain provisions of Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport by sea of bulk raw sugar, hereby make the following Regulations:

³ OJ No L140, 12.5.98, p.10

² OJ No L21, 27.1.96, p.42

¹ OJ No L175, 19.7.93, p.1

1. These Regulations may be cited as the European Communities (Hygiene of Foodstuffs) Regulations, 2000.

2. These Regulations shall come into operation on the 7th of June, 2000.

3. (1) In these Regulations-
"the Act of 1998" means the Food Safety Authority of Ireland Act, 1998 (No. 29 of 1998);
"authorised officer" means a person appointed as an authorised officer under Regulation 14;
"Directive 93/43/EEC" means Council Directive 93/43/EEC of 14 June 1993 on the hygiene of foodstuffs;
"Directive 96/3/EC" means Commission Directive 96/3/EC of 26 January 1996 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;
"Directive 98/28/EC" means Commission Directive 98/28/EC of 29 April 1998 granting a derogation from certain provisions of Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport by sea of bulk raw sugar;
"Directive 89/397/EEC"⁴ means Directive 89/397/EEC of 14 June 1989 on the official control of foodstuffs;

⁴ OJ No L186, 30.6.1989, p.23

"the Directives" mean Directive 93/43/EEC, Directive 96/3/EC and Directive 98/28/EC;

"food business" means any undertaking, whether for profit or not and whether public or private, carrying out any or all of the following: preparation, processing, manufacturing, packaging, storing, transportation, distribution, handling or offering for sale or supply of foodstuffs;

"food hygiene" hereinafter called "hygiene" means all measures necessary to ensure the safety and wholesomeness of foodstuffs. The measures shall cover all stages after primary production (including, for example, harvesting, slaughtering and milking) during preparation, processing, manufacturing, packaging, storing, transportation, distribution, handling and offering for sale or supply to the consumer;

"Food Safety Authority of Ireland" means the Food Safety Authority of Ireland established under Section 9 of the Food Safety Authority of Ireland Act, 1998 (No 29 of 1998);

"functional area" in relation to a health board established under section 4(1) of the Health Act, 1970 (No.1 of 1970), means the functional area of the health board as specified in the Health Board Regulations, 1970 (S.I. No. 170 of 1970), and in relation to the Eastern Regional Health Authority established under section 7 of the Health (Eastern Regional Health Authority) Act, 1999 (No. 13 of 1999) ("the Act of 1999") means the functional area of the Authority as specified in section 7(4) of the Act of 1999;

"health board" means a health board established under section 4(1) of the Health Act, 1970, and the Eastern Regional Health Authority established under section 7 of the Act of 1999;

"potable water" means water which complies with the standards of Council Directive 98/83/EC⁵ of 3 November 1998 on the quality of water intended for human consumption;

⁵ OJ No L330, 5.12.1998, p.32

"proprietor" means the person who carries on a food business and includes the person, for the time being, in charge;

"sale" and "sell" include offering or keeping for sale or for any other manner of disposal in the community;

"where appropriate" and "where necessary" means for the purposes of ensuring the safety and wholesomeness of foodstuffs;

"wholesome food" means food which is fit for human consumption as far as hygiene is concerned.

(2) A word or expression that is used in these Regulations and that is also used in the Directives has, unless the context otherwise requires, the same meaning in these Regulations that it has in the Directives.

(3) (a) A reference in these Regulations to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulation is intended.

(b) A reference in these Regulations to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

4. (1) The proprietor of a food business shall ensure that the preparation, processing, manufacturing, packaging, storing, transportation, distribution, handling and offering for sale or supply of foodstuffs shall be carried out in a hygienic way.

(2) The proprietor of a food business shall ensure that any step in the activities of his/her food business which is critical to ensuring food safety is identified and that adequate safety procedures are identified, implemented, maintained and reviewed on the basis of the following principles used to develop the system of HACCP (Hazard Analysis and Critical Control Points) :-

- (i) analysing the potential food hazards in a food business operation,
- (ii) identifying the points in those operations where food hazards may occur,
- (iii) deciding which of the points identified are critical to food safety - hereinafter referred to as "the critical points",
- (iv) identifying and implementing effective control and monitoring procedures at the critical points, and
- (v) reviewing the analysis of food hazards, the critical control points and the control and monitoring procedures periodically and whenever the food business operations change.

(3) Subject to paragraph (4), the proprietor of a food business shall comply with the rules of hygiene as listed in the Second Schedule.

(4) The proprietor of a food business may derogate from the rules of hygiene as set down in the Second Schedule provided that he or she does so in accordance with Directive 96/3/EC or Directive 98/28/EC.

5. (1) The Food Safety Authority of Ireland may approve guides to good hygiene practice which may be used voluntarily by food businesses as a guide to compliance with the provisions of Regulation 4.

(2) The Food Safety Authority of Ireland may at any time withdraw its approval from any guide to good hygiene practice referred to in paragraph (1).

(3) Where guides to good hygiene practice referred to in paragraph (1) are developed, they shall be developed as follows -

- (i) by food business sectors or by organisations representative of food business sectors or other interested parties,
- (ii) in consultation with the interests substantially affected, including the Food Safety Authority of Ireland and the health boards, and

(iii) where appropriate, having regard to the Recommended International Code of Practice, General Principles of Food Hygiene of the *Codex Alimentarius*.

(4) Guides to good hygiene practice referred to in this Regulation may be developed under the aegis of a national standards institute which, for the time being, shall be the National Standards Authority of Ireland.

(5) The Food Safety Authority of Ireland shall assess the guides to good hygiene practice referred to in this Regulation with a view to determining the extent to which they may be presumed to comply with Regulation 4.

(6) The Food Safety Authority of Ireland shall forward to the Commission those guides to good hygiene practice which it presumes to comply with Regulation 4.

(7) The Food Safety Authority of Ireland shall, if it considers it appropriate, recommend that the proprietor of a food business apply the European Standards of the EN 29000 series in order to implement the general rules of hygiene and any approved guides to good hygiene practice.

6. These Regulations shall apply without prejudice to the more specific food hygiene rules in the following statutes and Regulations:

- (a) the Dairy Produce Act, 1924, (No. 58 of 1924),
- (b) the European Communities (Hygienic Production and Placing on the Market of Raw Milk, Heat-Treated Milk and Milk-Based Products) Regulations, 1996 (S.I. No. 9 of 1996),
- (c) the European Communities (Wild Game) Regulations 1995 (S.I. No. 298 of 1995),
- (d) the European Communities (Rabbit Meat and Farm Game Meat) Regulations 1995, (S.I. No. 278 of 1995),
- (e) the European Communities (Meat Products and Other Products of Animal Origin) Regulations, 1995 (S.I. No. 126 of 1995),
- (f) the European Communities (Fresh Poultrymeat) Regulations, 1996 (S.I. No. 3 of 1996),
- (g) the Fresh Meat Acts (1930 - 1988),
- (h) the Abattoirs Act 1988 (No. 8 of 1988),
- (i) Directive 64/433/EEC⁶ on health conditions for the production and marketing of fresh meat, as amended,

⁶ OJ No 121, 29.7.1964, p2012/64

(j) the European Communities (Minced Meat and Meat Preparations) Regulations, 1996 (S.I. No. 243 of 1996),

(k) the European Communities (Live Bivalve Molluscs) (Health Conditions for Production and Placing on the Market) Regulations, 1996 (S. I. No. 147 of 1996, or

(l) the European Communities (Fishery Products) (Health Conditions and Hygiene Rules for Production and Placing on the Market) Regulations, 1996 (S.I. No. 170 of 1996).

7. (1) These Regulations shall be deemed to be food legislation for the purposes of the Act of 1998 and the enforcement provisions contained in the European Communities (Official Control of Foodstuffs) Regulations, 1998 (S.I. No. 85 of 1998), as amended, shall apply for the purpose of ensuring compliance with these Regulations.

(2) An official certificate given in accordance with sub-article (1) of article 14 of the said Regulations of 1998, as amended, may be adduced in evidence in a prosecution under these Regulations and shall be prima facie evidence of the matters contained therein, until the contrary is proved.

8. Without prejudice to Regulation 7, the powers contained in the Act of 1998 may be exercised for the purpose of ensuring compliance with these Regulations.

9. The Food Safety Authority of Ireland, when determining compliance with the Regulations shall have due regard to-

(a) any relevant guide to good hygiene practice approved in accordance with paragraph (1) of Regulation 5 and forwarded to the Commission pursuant to paragraph (6) of that Regulation, and

(b) any European guide to good hygiene practice developed in accordance with Article 5.6 and 5.7 of Directive 93/43/EEC and published per Article 5.8 thereof.

10. (1) In the enforcement of these Regulations, the Food Safety Authority of Ireland shall:

(a) include a general assessment of the potential food safety hazards associated with the business;

(b) pay particular attention to critical control points identified by food businesses to assess whether the necessary monitoring and verification controls are being operated;

(c) ensure that all food businesses are inspected at a frequency which has regard to the risk associated with the business.

(2) (a) The Food Safety Authority of Ireland shall ensure that controls on foodstuffs imported into the Community are carried out in accordance with the European Communities (Official Control of Foodstuffs) Regulations, 1998, as amended, in order to ensure that the provisions of these Regulations are being complied with.

(b) Without prejudice to subparagraph (a), the powers contained in the Act of 1998 may be exercised for the purpose of ensuring compliance with these Regulations.

11. (1) If, in the enforcement of these Regulations, the Food Safety Authority of Ireland ascertains that failure to comply with the provisions of these Regulations might result in risks to the safety or wholesomeness of foodstuffs, it shall take appropriate measures, which may extend to the withdrawal and/or the destruction of the foodstuff or to the closure of all or part of a food business for an appropriate period of time.

(2) In determining, for the purposes of these Regulations, the risk to food safety or wholesomeness, regard shall be had to the nature of the food, the manner in which it is handled and packed and any process to which the food is subjected before supply to the consumer and the conditions under which it is displayed and/or stored.

12. The Minister for Health and Children, after consultation with the Food Safety Authority of Ireland, may, by order, provide for interim protective measures with regard to imports of foodstuffs from all or part of a third country as provided for in Article 10 of Directive 93/43/EEC.

13. Without prejudice to Regulations 7 to 12, before entry into a service contract by a health board with the Food Safety Authority of Ireland under the Act of 1998, the powers contained in Regulations 14 to 28 may be exercised for the purpose of ensuring compliance with these Regulations and these Regulations shall be enforced and executed by health boards in their functional areas.

14. (1) The Chief Executive Officer of a health board may appoint in writing such and so many officers of the health board or a local authority as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations in the functional area of the health board.

(2) A person appointed as an authorised officer under the European Communities (Hygiene of Foodstuffs) Regulations, 1998 (S.I. No. 86 of 1998) and holding office as an authorised officer immediately before the making of these Regulations shall continue in office as if appointed under this Regulation.

(3) An authorised officer shall be furnished with a certificate of his appointment as an authorised officer and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by any person affected, produce the certificate to that person.

(4) For the purposes of ensuring compliance with these Regulations after entering into a service contract between the Food Safety Authority of Ireland and a health board, the appointments referred to in paragraph (1) and (2) shall continue in force.

15. A health board, when determining compliance with the Regulations shall have due regard to-

(a) Any relevant guide to good hygiene practice approved in accordance with paragraph (1) of Regulation 5 and forwarded to the Commission pursuant to paragraph (6) of that Regulation, and

(b) any European guide to good hygiene practice developed in accordance with Article 5.6 and 5.7 of Directive 93/43/EEC and published per Article 5.8 thereof.

16. (1) In the enforcing of these Regulations, a health board shall :-

(a) include a general assessment of the potential food safety hazards associated with the business;

(b) pay particular attention to critical control points identified by food businesses to assess whether the necessary monitoring and verification controls are being operated;

(c) ensure that all food businesses are inspected with a frequency which has regard to the risk associated with the business.

(2) A health board shall ensure that controls on foodstuffs imported into the Community are carried out in accordance with these Regulations.

17. (1) If, in the enforcement of these Regulations, a health board ascertains that failure to comply with the provisions of these Regulations might result in risks to the safety or wholesomeness of foodstuffs, it shall take appropriate measures, which may extend to the withdrawal and/or the destruction of the foodstuff or to the closure of all or part of a food business for an appropriate period of time in accordance with the provisions of these Regulations.

(2) In determining for the purposes of these Regulations the risk to food safety or wholesomeness, regard shall be had to the nature of the food, the manner in which it is handled and packed and any process to which the food is subjected before supply to the consumer and the conditions under which it is displayed and/or stored.

18. (1) An authorised officer may for the purpose of ensuring that these Regulations are being complied with -

(a) require any employee of the health board, a former employee of the health board or any person otherwise currently or previously retained by the health board, or any person who carries or has carried on any trade, business or activity to which these Regulations relate or any person currently or previously employed in connection with that trade, business or activity to produce to him or her such records, and in the case of such information in a non-legible form to reproduce it in a permanent legible form, or to give him or her such information, as the officer may reasonably require in relation to any entries in such records,

(b) at all reasonable times enter any premises, subject to paragraph (3), at which there are reasonable grounds to believe that any trade, business or activity in connection with the production, processing, disposal, manufacture, exportation, importation, storage, distribution or sale of food, is or has been carried on, or that records in relation to such trade, business or activity are kept, and search and inspect the premises and any records in or on the premises,

(c) secure for later inspection any premises or any part thereof in which such records are kept or there are reasonable grounds for believing that such records are kept,

(d) require any person in charge thereof or so employed therein, to produce to the officer such records and to give to the officer such information as the officer may reasonably require in relation to any entries in such records,

(e) inspect and take copies of or extracts from any such records (including in the case of information in a non-legible form a copy of or extract from such information in a permanent legible form),

(f) remove and retain the said records for such period as may be reasonable for further examination or until the conclusion of any legal proceedings,

(g) as regards any foodstuff the officer finds at or in a premises, require any person in charge thereof or any person who appears to the officer to be in possession of the foodstuff, to supply without payment, for test, examination or analysis sufficient samples thereof,

(h) require any person to afford the officer such facilities and assistance within his or her control or responsibilities as are reasonably necessary to enable the officer to exercise any of the powers conferred on an authorised officer under this Regulation,

(i) require a person referred to in subparagraph (a) to give to the officer any information which the officer may reasonably require in regard to the trade, business or activity or in regard to the persons carrying on such trade, business or activity or employed in connection with that trade, business or activity,

(j) require any person referred to in subparagraph (a) by or on whose behalf data equipment is or has been used in relation to a business within the meaning of subparagraph (b) or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the officer all reasonable assistance in relation to its use thereto,

(k) summon, at any reasonable time, any other person being or having been an employee of the health board or retained or having been retained by the health board or employed in connection with the trade, business or activity under examination by the health board to give to the officer any information which the officer may reasonably require in regard to that trade, business or activity and to produce to the officer any records which are in that person's power or control;

(l) examine any procedure connected with the manufacture of a foodstuff, and

(m) exercise such other powers as may be necessary to ensure that these Regulations are being complied with.

(2) Where an authorised officer has reasonable grounds for believing that a person has contravened any provision of these regulations and so informs such person, the authorised officer may require such person to state his name and address and, if the authorised officer thinks it necessary, to produce corroborative evidence of his name and address.

(3) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (6) authorising such entry.

(4) Where an authorised officer in the exercise of the officer's powers under this Regulation is prevented from entering any premises an application may be made to the District Court under paragraph (6) for a warrant authorising such entry.

(5) An authorised officer may require a member of the Garda Síochána to assist him in the exercise of any power conferred on him by these Regulations which involves the detention of any person, the bringing of any person to any place, the breaking open of any premises or any other action in which the use of force may be necessary and is lawful, and any member of the Garda Síochána so required shall comply with the requirement. An authorised officer where he considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer under this Regulation.

(6) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this Regulation held on or in any premises, or any part of any premises or there is a product which an authorised officer requires to inspect for purposes of these Regulations or that such inspection is likely to disclose evidence of a contravention of these Regulations, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers or by a member of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter, if need be by reasonable force, the premises and exercise all or any of the powers conferred on an authorised officer under this Regulation.

(7) An application under paragraph (6) shall be made to the judge of the District Court in whose district court district the premises is situated.

(8) A person who has gained access to information by virtue of inspections made in the enforcement of these Regulations shall not disclose such information unless it is necessary to do so for the purpose of the enforcement of these Regulations. Any person who contravenes this paragraph shall be guilty of an offence.

19. Control for the purposes of these Regulations shall comprise one or more of the following operations in accordance with the conditions laid down in these Regulations, and in the light of the examinations to be carried out:

- (a) inspection;
- (b) sampling and analysis;
- (c) inspection of staff hygiene;
- (d) examination of written and documentary material;
- (e) examination of any verification systems set up by the undertaking and of the results obtained.

20. (1) The following may be subject to inspection by an authorised officer in the enforcement and execution of these Regulations:

(a) the state and use which is made at the different stages enumerated in Regulation 9(3) of the European Communities (Official Control of Foodstuffs) Regulations, 1998 (S.I. No. 85 of 1998), as amended, of the site, premises, offices, plant and plant surroundings, means of transport, machinery and equipment;

(b) raw materials, ingredients, technological aids and other products used for the preparation and production of foodstuffs;

(c) semi-finished products;

(d) finished products;

(e) materials and articles intended to come into contact with foodstuffs;

(f) cleaning and maintenance products and processes and pesticides;

(g) processes used for the manufacture or processing of foodstuffs;

(h) labelling and presentation of foodstuffs;

(i) preserving methods.

(2) The operations enumerated in paragraph (1) of this Regulation may where necessary be supplemented by :

(a) interviews with the head of the inspected undertaking and with persons working for that undertaking;

(b) the reading of values recorded by measuring instruments installed by the undertaking;

(c) inspections carried out by the health board, with its own instruments, of measurements taken with the instruments installed by the undertaking.

21. (1) Inspections shall be carried out :

(a) regularly and/or

(b) where non-compliance is suspected.

(2) Inspections shall be carried out using means proportionate to the end to be observed.

(3) Inspection shall cover all stages of production, manufacture, import, processing, storage, transport, distribution and trade.

(4) As a general rule, inspections shall be carried out without prior warning.

(5) The health board shall, in each case, select the stage or stages which it considers the most appropriate for its examination from those listed in paragraph (3) of this Regulation.

22. (1) Persons who, in the exercise of their activity come into contact, whether directly or indirectly, with the materials and products referred to in Regulation 20(1)(b) to (f) shall be subject to the hygiene inspection referred to in Regulation 19(c).

(2) The inspection referred to in paragraph (1) shall be carried out for the purpose of checking that the health standards concerning personal cleanliness and clothing are respected. Performance of this inspection shall be without prejudice to medical examinations.

23. (1) An authorised officer may, for the purposes of these Regulations purchase or take without payment a sample of any controlled item.

(2) An authorised officer may for the purpose of taking a sample of a controlled item open any receptacle.

(3) Where an authorised officer purchases or takes without payment, with the intention of having it analysed by an approved examiner, a sample of a controlled item which is suspected by him -

(a) to be diseased, contaminated or otherwise unfit for human consumption, and/or

(b) to fail to comply with the provisions of any other Regulations applicable to such a controlled item,

he may, by notice in writing to the seller, owner or person in apparent charge or control of such item (as the case may be) prohibit the removal of the controlled item except to any place which may be specified in the notice, during such period as may be specified in the notice, but not exceeding fourteen days from the date of the taking of the sample.

(4) Where an authorised officer purchases or takes without payment a sample of a controlled item with the intention of having it analysed by an approved examiner within the meaning of the European Communities (Official Control of Foodstuffs) Regulations, 1998, as amended, in an official laboratory approved under the European Communities (Official Control of Foodstuffs) (Approved Laboratories) Order, 1998 (S.I. No. 95 of 1998), he shall after purchasing or taking the sample forthwith notify the seller, owner or person in apparent charge or control of the controlled item (as the case may be) of his intention of having the sample analysed.

(5) Nothing in this Regulation shall authorise the examination or detention of a controlled item without the consent of an officer of the Revenue Commissioners where the duties of such officer in relation to such item have not been wholly discharged.

24. (1) Where a sample of any product, article or substance is supplied pursuant to paragraph (1)(g) of Regulation 18 and where the division of the sample is reasonably practicable, the authorised officer concerned may divide the sample into not more than three approximately equal parts each of which he shall mark in such a way as to identify it as a part of the sample taken by the officer. The authorised officer shall mark, seal and fasten each part in such a manner as its nature will permit, forward one part to a laboratory approved under the European Communities (Official Control of Foodstuffs) (Approved Laboratories) Order, 1998 (S.I. No. 95 of 1998), where it may be tested, examined or analysed for the purposes of these Regulations by an approved examiner, within the meaning of the European Communities (Official Control of Foodstuffs) Regulations, 1998, as amended, give or send one part to the seller, owner or person in apparent charge or control of the product, article or substance and retain the third part.

(2) Where an authorised officer takes a sample consisting of a product, article or substance contained in unopened containers and its division into parts—

(a) is not reasonably practicable, or

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

the provision of paragraph (1) as regards the division of samples into parts shall be deemed to be complied with if the authorised officer divides the containers into three lots and deals with each lot as if it were a sample as specified under paragraph (1).

(3) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on a sample of a controlled item taken pursuant to these Regulations shall not be adduced unless before the proceedings were instituted the sample was divided as specified in paragraphs (1) and (2) of this Regulation.

The part, package or container retained by the authorised officer shall be produced at the hearing.

25. (1) The approved examiner within the meaning of Regulation 23(4) or a person under his direction shall analyse as soon as possible any sample of a product, article of substance submitted to him in pursuance of these Regulations and the approved examiner shall certify to the person who submitted the sample to him the result of such analysis. If the sample is found to be diseased, contaminated or otherwise unfit for human consumption, the form of certificate set out in the First Schedule to these Regulations or a certificate in like form shall be used.

(2) An official certificate given in accordance with paragraph (1) may be adduced in evidence in a prosecution under these Regulations and shall be *prima facie* evidence of the matters contained therein, until the contrary is proved.

26. Where a sample of a product, article or substance is taken by an authorised officer in pursuance of these Regulations for analysis by an approved examiner, and where the seller, owner or person in apparent charge or control of such item requests in writing the results of such analysis, the request shall be made to the health board in whose area the sample was taken and the health board shall comply with such request.

27. (1) Whenever a Chief Executive Officer of a health board has evidence that there is a grave and immediate danger that a foodstuff or foodstuffs intended for sale for human consumption may become so diseased, contaminated or otherwise unfit for human consumption as to be liable to cause serious illness if consumed, he may apply to the Justice of the District Court for a Closure Order prohibiting the operation of the food business and on such application such Justice may, as he thinks fit, grant, or refuse to grant, such an Order.

(2) A Chief Executive Officer of a health board shall cause written notice of his intention to seek a Closure Order against a food business to be given to the proprietor of the said business before the date of the court hearing.

(3) A proprietor of a food business in respect of which a Closure Order is enforced may, at any time, apply to the Justice of the District Court for an annulment of the Closure Order and such District Justice may, as he thinks fit, confirm or annul the Closure Order.

(4) No person shall carry on a food business in respect of which an Order under this Regulation is for the time being in force.

28. (1) An authorised officer may seize, remove, detain and/or direct the withdrawal from the market of any controlled item intended for sale for human consumption which is -

(a) suspected by him to be diseased, contaminated or otherwise unfit for human consumption, and/or

(b) suspected by him to fail to comply with the provisions of any other Regulations applicable to such a controlled item.

(2) With the consent in writing of the owner or person in apparent charge or control of such controlled item, or in accordance with an order of a Justice of the District Court under paragraph (4) of this Regulation destroy or otherwise dispose of same as to prevent it being used for human consumption.

(3) An authorised officer who has seized a controlled item in pursuance of the provisions of this Regulation may, on giving notice in writing to the owner or person responsible for such item of his intention to do so, apply to a Judge of the District Court for an order directing that such item be destroyed or otherwise disposed of.

(4) A Judge of the District Court to whom the application is made for an order under paragraph (3) may, if satisfied that such item -

(a) is diseased, contaminated or otherwise unfit for human consumption, and/or

(b) fails to comply with the provisions of any other Regulations applicable to such a controlled item,

order that it be destroyed or otherwise disposed of after such period, not exceeding fourteen days, as may be specified in such order, and an authorised officer shall destroy or dispose of it accordingly.

29. (1) A person who fails to comply with these Regulations shall be guilty of an offence.

(2) A person who falsely represents himself to be an authorised officer shall be guilty of an offence.

(3) A person who -

(a) obstructs or interferes with an authorised officer in the exercise of the officer's powers under these Regulations, or

(b) fails or refuses to state his name or address in compliance with a requirement under these Regulations, or

(d) fails to comply with a request from an authorised officer under these Regulations, or

(e) makes a statement to an authorised officer which the person knows is false or misleading,

(f) gives in purported compliance with a requirement under these Regulations a name, an address or corroborative evidence which is false or misleading

shall be guilty of an offence.

(4) A person who is guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,500 or at the discretion of the Court to imprisonment for a term not exceeding six months, or both.

(5) For the purposes of these Regulations, every contravention of a Regulation shall be deemed to be a separate contravention and every contravention of a

paragraph shall be deemed to be a separate contravention and shall carry the same penalty as for a single contravention of any Regulation of these Regulations.

30. Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to be attributable to any neglect on the part of any director, manager, secretary or any other officer of such body or a person who was purporting to act in any such capacity, such person shall also be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

31. An offence under these Regulations may be prosecuted by the health board in whose functional area the offence was committed.

32. (1) The European Communities (Hygiene of Foodstuffs) Regulations, 1998 (S.I. No. 86 of 1998) are hereby revoked.

(2) References in any other instrument to the Regulations revoked under paragraph (1) shall be construed as references to these Regulations, as appropriate.

First Schedule

Form of official certificate to be given by an approved examiner to an authorised officer.

**European Communities (Hygiene of Foodstuffs) Regulations,
2000**

Certificate of Analysis

To (1)

(1) Insert the name and address of the person submitting the sample for analysis.

I, the undersigned (2)

(2) Insert description (i.e. officer of Health Board etc.)

being the Approved Examiner for the purpose of Regulations 23 to 26 of the above Regulations certify that on

theday of20

a sample marked (3)

(3) Insert particulars of marking (e.g. name, date etc.)

Date

Number

Weight or Measure (4)

(4) This may be left unanswered if the sample cannot be conveniently weighed or measured or the weight or measurement is not material to the result of analysis.

was submitted to me by you and I certify that the sample has been analysed/examined by me or under my direction (5) and as a result I am of the opinion that (6)

(6) Here the approved examiner should specify the result of the analysis having regard to the provision of relevant legislation.

(5) State whether the analysis was carried out by an approved examiner or under his direction by deleting appropriate words ("by me" or "under my direction").

Observations : (7)

(7) Here the approved examiner may insert, at his discretion, his opinion whether the analysis indicates any addition, abstraction, deficiency or the presence of foreign matter or other defect and whether the composition or quality is thereby affected; any physical, chemical or other properties bearing on the composition or quality of the article; whether the article is injurious to health or unfit for human consumption; whether and in what respect a label and description relating to the sample is incorrect or misleading; and he may add any other observations as he may consider relevant.

I further certify that the sample has undergone no change which would affect my opinion/observations expressed above.

Certified by me this day of 20
at (8)

(8) Insert the name and address of the laboratory carrying out the analysis/examination.

Name in BLOCK LETTERS Status

Signature

Official Stamp

NOTES

Second Schedule PREFACE

1. Parts V to X of this Schedule apply throughout all stages after primary production during preparation, processing, manufacturing, packaging, storing, transportation, distribution, handling and offering for sale or supply to the consumer.

The remaining Parts of the Schedule apply as follows:

- Part I to all food premises except those covered by Part III,
- Part II to all rooms where food is prepared, treated or processed except those covered by Part III and excluding dining areas,
- Part III to those premises listed in the heading to the Part,
- Part IV to all transportation.

PART I GENERAL REQUIREMENTS FOR FOOD PREMISES (OTHER THAN THOSE SPECIFIED IN PART III)

1. Food premises must be kept clean and maintained in good repair and condition.

2. The layout, design, construction and size of food premises shall:

- (a) permit adequate cleaning and/or disinfection;

(b) be such as to protect against the accumulation of dirt, contact with toxic materials, the shedding of particles into food and the formation of condensation or undesirable mould on surfaces;

(c) permit good food hygiene practices, including protection against cross contamination between and during operations by foodstuffs, equipment, materials, water, air supply or personnel and external sources of contamination such as pests;

(d) provide, where necessary, suitable temperature conditions for the hygienic processing and storage of products.

3. An adequate number of washbasins must be available, suitably located and designated for cleaning hands. An adequate number of flush lavatories must be available and connected to an effective drainage system. Lavatories must not lead directly into rooms in which food is handled.

4. Washbasins for cleaning hands must be provided with hot and cold running water, materials for cleaning hands and for hygienic drying. When necessary, the provisions for washing food must be separate from the hand-washing facility.

5. There must be suitable and sufficient means of natural or mechanical ventilation. Mechanical air flow from a contaminated area to a clean area must be avoided; ventilation systems must be so constructed as to enable filters and other parts requiring cleaning or replacement to be readily accessible.

6. All sanitary conveniences within food premises shall be provided with adequate natural or mechanical ventilation.

7. Food premises must have adequate natural and/or artificial lighting.

8. Drainage facilities must be adequate for the purpose intended and must be designed and constructed to avoid the risk of contamination of foodstuffs.

9. Adequate changing facilities for personnel must be provided where necessary.

**PART II SPECIFIC REQUIREMENTS IN ROOMS
WHERE FOODSTUFFS ARE PREPARED, TREATED OR PROCESSED
(EXCLUDING DINING AREAS AND THOSE PREMISES SPECIFIED IN PART III)**

1. In rooms where food is prepared, treated or processed (excluding dining areas):—

(a) floor surfaces must be maintained in a sound condition and they must be easy to clean and, where necessary, disinfect. This will require the use of impervious, non-absorbent, washable and non-toxic materials unless food business operators can satisfy the health board that other materials used are appropriate. Where appropriate, floors must allow adequate surface drainage;

(b) wall surfaces must be maintained in a sound condition and they must be easy to clean and, where necessary, disinfect. This will require the use of impervious, non-absorbent, washable and non-toxic materials and require a smooth surface

up to a height appropriate for the operations unless food business operators can satisfy the health board that other materials used are appropriate;

(c) ceilings and overhead fixtures must be designed, constructed and finished to prevent the accumulation of dirt and to reduce condensation, the growth of undesirable moulds and the shedding of particles;

(d) windows and other openings must be constructed to prevent the accumulation of dirt. Those which can be opened to the outside environment must where necessary be fitted with insect-proof screens which can be easily removed for cleaning. Where open windows would result in contamination of foodstuffs, windows must remain closed and fixed during production;

(e) doors must be easy to clean and, where necessary, disinfect. This will require the use of smooth and non-absorbent surfaces unless food business operators can satisfy the health board that other materials used are appropriate.

(f) surfaces (including surfaces of equipment) in contact with food must be maintained in a sound condition and be easy to clean and, where necessary, disinfect. This will require the use of smooth, washable and non-toxic materials unless food business operators can satisfy the health board that other materials used are appropriate.

2. Where necessary, adequate facilities must be provided for the cleaning and disinfecting of work tools and equipment. These facilities must be constructed of materials resistant to corrosion and must be easy to clean and have an adequate supply of hot and cold water.

3. When appropriate, adequate provision must be made for any necessary washing of the food. Every sink or other such facility provided for the washing of food must have an adequate supply of hot and/or cold potable water as required and be kept clean.

PART III REQUIREMENTS FOR MOVABLE AND/OR TEMPORARY PREMISES (SUCH AS MARQUEES, MARKET STALLS, MOBILE SALES VEHICLES) PREMISES USED PRIMARILY AS A PRIVATE DWELLING HOUSE, PREMISES USED OCCASIONALLY FOR CATERING PURPOSES AND VENDING MACHINES.

1. Premises and vending machines shall be so sited, designed, constructed and kept clean and maintained in good repair and condition as to avoid the risk of contaminating foodstuffs and harbouring pests, so far as is reasonably practicable.

2. In particular and where necessary:

(a) appropriate facilities must be available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities);

(b) surfaces in contact with food must be in a sound condition and be easy to clean and, where necessary, disinfect. This will require the use of smooth, washable, non-toxic materials unless food business operators can satisfy the health board that other materials used are appropriate;

(c) adequate provision must be made for the cleaning and, where necessary, disinfecting of work utensils and equipment;

- foodstuffs;
- (d) adequate provision must be made for the cleaning of
 - (e) an adequate supply of hot and/or cold potable water must be available;
 - (f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) must be available;
 - (g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions must be available;
 - (h) foodstuffs must be so placed as to avoid, so far as is reasonably practicable, the risk of contamination.

PART IV TRANSPORT

1. Conveyances and/or containers used for transporting foodstuffs must be kept clean and maintained in good repair and condition in order to protect foodstuffs from contamination and must, where necessary, be designed and constructed to permit adequate cleaning and/or disinfection.

2. Receptacles in vehicles and/or containers must not be used for transporting anything other than foodstuffs where this may result in contamination of foodstuffs.

Bulk foodstuffs in liquid, granular or powder form must be transported in receptacles and/or containers/tankers reserved for the transport of foodstuffs. Such containers must be marked in a clearly visible and indelible fashion, in one or more Community languages, to show that they are used for the transport of foodstuffs, or must be marked "for foodstuffs only".

3. Where conveyances and/or containers are used for transporting anything in addition to foodstuffs or for transporting different foodstuffs at the same time, there must be effective separation of products, where necessary, to protect against the risk of contamination.

4. Where conveyances and/or containers have been used for transporting anything other than foodstuffs or for transporting different foodstuffs, there must be effective cleaning between loads to avoid the risk of contamination.

5. Foodstuffs in conveyances and/or containers must be so placed and protected as to minimise the risk of contamination.

6. Where necessary, conveyances and/or containers used for transporting foodstuffs, must be capable of maintaining foodstuffs at appropriate temperatures and, where necessary, designed to allow those temperatures to be monitored.

PART V EQUIPMENT REQUIREMENTS

All articles, fittings and equipment with which food comes into contact shall be kept clean and:

(a) be so constructed, be of such materials and be kept in such good order, repair and condition as to minimise any risk of contamination of the food;

(b) with the exception of non-returnable containers and packaging, be so constructed, be of such materials and be kept in such good order, repair and condition as to enable them to be kept thoroughly cleaned and, where necessary, disinfected, sufficient for the purposes intended;

(c) be installed in such a manner as to allow adequate cleaning of the surrounding area.

PART VI FOOD WASTE

1. Food waste and other refuse must not be allowed to accumulate in food rooms except so far as is unavoidable for the proper functioning of the business.

2. Food waste and other refuse must be deposited in closable containers unless food business operators can satisfy the health board that other types of containers used are appropriate. These containers must be of an appropriate construction, kept in sound condition and where necessary be easy to clean and disinfect.

3. Adequate provision must be made for the removal and storage of food waste and other refuse. Refuse stores must be designed and managed in such a way as to enable them to be kept clean and to protect against access by pests and against contamination of food, drinking water, equipment or premises.

PART VII WATER SUPPLY

1. There must be an adequate supply of potable water. This potable water must be used whenever necessary to ensure foodstuffs are not contaminated.

2. When appropriate, ice must be made from potable water. This ice must be used whenever necessary to ensure foodstuffs are not contaminated. It must be made, handled and stored under conditions which protect it from all contamination.

3. Steam used directly in contact with food must not contain any substance which presents a hazard to health or is likely to contaminate the product.

4. Water unfit for drinking used for the generation of steam, refrigeration, fire control and other similar purposes not relating to food, must be conducted in separate systems, readily identifiable and having no connection with, nor any possibility of reflux into, the potable water systems.

PART VIII PERSONAL HYGIENE

1. Every person working in a food handling area shall maintain a high degree of personal cleanliness and shall wear suitable, clean and, where appropriate, protective clothing.

2. No person, known or suspected to be suffering from or to be a carrier of, a disease likely to be transmitted through food or while afflicted, for example with infected wounds, skin infections, sores or with diarrhoea, shall be permitted to work in any food handling area in any capacity in which there is any likelihood of directly or indirectly contaminating food with pathogenic micro-organisms.

PART IX PROVISIONS APPLICABLE TO FOODSTUFFS

1. No raw materials or ingredients shall be accepted by a food business if they are known to be, or might reasonably be expected to be, so contaminated with parasites, pathogenic micro-organisms or toxic, decomposed or foreign substances that, after normal sorting and/or preparatory or processing procedures hygienically applied by food businesses, they would still be unfit for human consumption.

2. Raw materials and ingredients stored in the establishment shall be kept in appropriate conditions designed to prevent harmful deterioration and to protect them from contamination.

3. All food which is handled, stored, packaged, displayed and transported shall be protected against any contamination likely to render the food unfit for human consumption, injurious to health or contaminated in such a way that it would be unreasonable to expect it to be consumed in that state. In particular, food must be so placed and/or protected as to minimise any risk of contamination. Adequate procedures must be in place to ensure pests are controlled.

4. Raw materials, ingredients, intermediate products and finished products likely to support the growth of pathogenic micro-organisms or the formation of toxins must be kept at temperatures which would not result in a risk to health. Consistent with food safety, limited periods outside temperature control are permitted where necessary to accommodate the practicalities of handling during preparation, transport, storage, display and service of food.

5. When foodstuffs are to be held or served at chilled temperatures they must be cooled as quickly as possible following the final heat processing stage, or final preparation stage if no heat process is applied, to a temperature which would not result in a risk to health.

6. Hazardous and/or inedible substances, including animal feedstuffs, shall be adequately labelled and stored in separate and secure containers.

PART X TRAINING

Food business operators shall ensure that food handlers are supervised and instructed and/or trained in food hygiene matters commensurate with their work activity.

GIVEN under my official seal this 3rd day of June, 2000



Micheál Martin_____

Minister for Health and Children

Explanatory Note

(This note is not part of the Regulations and does not purport to be a legal interpretation).

These Regulations give effect to Council Directive 93/43/EEC on the hygiene of foodstuffs. They cover all stages after primary production and set down the obligations on proprietors of food businesses, including the requirement that such business is operated in a hygienic way. The rules of hygiene cover requirements for premises, rooms where food is prepared, foodstuffs, transportation, equipment, food waste, water supply, personal hygiene and training. Proprietors are also obliged to identify steps in the activities of the business which are critical to ensuring food safety and ensure that adequate safety procedures are identified, implemented and reviewed.

The Regulations also give effect to Commission Directives 96/3/EC and 98/28/EC which provides a derogation from part of the Annex to Directive 94/43/EEC and lays down equivalent conditions to ensure the protection of the public health and safety of food in the case of the bulk transport in sea going vessels of liquid oils or fats and the transport by sea of bulk raw sugar.

The Regulations also provide for the Food Safety Authority of Ireland to approve Guides to Good Hygiene Practice which may be used voluntarily by food businesses as a guide to compliance with these Regulations.