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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 207**

**Food Safety (Fishery Products and Live Shellfish)  
(Hygiene) Regulations (Northern Ireland) 1998**

**Part VI**

**Enforcement, Penalties and Revocations**

**Functions of the Department and district councils**

**52.**—(1) Subject to paragraph (2)(b), the Department shall perform the functions assigned to it by Chapters III and VI of Schedule 2.

(2) Each district council shall perform—

- (a) the functions assigned to it by Chapters III and VI of Schedule 2; and
- (b) any function of the Department specified in paragraph 1 of Chapter VI of Schedule 2 which the Department requires the district council to undertake on its behalf.

(3) The Department and district councils shall perform the functions assigned to them by Chapter V of Schedule 3.

**Offences and penalties**

**53.**—(1) If a person contravenes any provision of regulations 8 to 10, 13, 16 to 19(1), 21(1), (2) and (4), 22(1) to (3), 23, 25, 28 to 30, or 33 to 40, he shall be guilty of an offence, and subject to paragraph (2) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.

(2) Any person who—

- (a) without reasonable cause, fails to give any person acting on behalf of a district council in matters arising under Part V any assistance or information which that person may reasonably require of him in connection with such matters; or
- (b) in purported compliance with any such requirement as is mentioned in sub-paragraph (a) intentionally or recklessly furnishes information which is false or misleading in a material particular,

shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Enforcement of Parts II and III**

**54.** Except where otherwise specified, each district council shall enforce and execute Parts II and III within its district.

### **Application of provisions of the Order for the purposes of Parts II and III**

**55.**—(1) The following provisions of the Order shall apply for the purposes of Parts II and III as they apply for the purposes of Articles 7, 13 and 14 of the Order, and a reference in them to the Order shall for the purposes of Parts II and III be construed as a reference to these Regulations—

- (a) Article 4 (presumptions that food intended for human consumption);
- (b) Article 19 (offences due to fault of another person);
- (c) Article 20 (defence of due diligence);
- (d) Article 30(8) (which relates to documentary evidence);
- (e) Article 34 (obstruction, etc., of officers);
- (f) Article 35 (time limit for prosecutions).

(2) Article 26(2) of the Order (discharge of duties of district councils by the Department concerned) shall apply as respects functions imposed on district councils under these Regulations as it does as respects a duty imposed on a district council by Article 26(1) of the Order.

(3) Article 33 of the Order (powers of entry) shall apply for the purposes of Parts II and III as though—

- (a) any reference to premises included a reference to a fishing vessel, a factory vessel or any vessel used for transporting live shellfish to a relaying area or dispatch centre or purification centre (in so far as it does not already do so); and
- (b) any reference to an occupier included a reference to the master or other person in charge of a vessel mentioned in sub-paragraph (a) (in so far as it does not already do so).

(4) Article 2(6) of the Order (territorial waters) shall apply for the purposes of Parts II and III as it applies for the purposes of the Order.

### **Enforcement of Part IV**

**56.** For the purposes of the Products of Animal Origin (Import and Export) Regulations (Northern Ireland) 1998<sup>(1)</sup> (in this paragraph referred to as “the Import and Export Regulations”)—

- (a) the conditions set out in Part IV shall be treated as animal and public health requirements; and
- (b) those conditions shall be enforced as animal and public health requirements—
  - (i) by a district council or the Department of Agriculture for Northern Ireland (or by an authorised officer of a district council or of that Department), whichever has the responsibility under the Import and Export Regulations for enforcing animal and public health requirements 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.

### **Food treated as failing to comply with food safety requirements**

**57.**—(1) A district council may certify any fishery products or live shellfish in respect of which any applicable requirements of Part II or III are not met as being a food or food source which fails to comply with these Regulations.

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(1) S.R. 1998 No. 45

(2) Any fishery products or live shellfish which in accordance with paragraph (1) are certified as being a food or food source which fails to comply with these Regulations may be treated for the purpose of Article 8 of the Order as failing to comply with food safety requirements.

### **Amendment of other Regulations**

**58.**—(1) After sub-paragraph (h) of paragraph (2) of regulation 3 of the Food Premises (Registration) Regulations (Northern Ireland) 1992(2) there shall be inserted—

“(i) as a dispatch centre, purification centre, factory vessel or fishery products establishment which is approved under, or an auction or wholesale market which is registered under, the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations (Northern Ireland) 1998.”.

(2) Regulation 3(2) of the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995(3) shall be amended as follows—

- (a) sub-paragraphs (a) to (e) shall be omitted; and
- (b) after sub-paragraph (l) there shall be inserted—

“(m) the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations (Northern Ireland) 1998.”.

(3) Regulation 3 of the Food Safety (Temperature Control) Regulations (Northern Ireland) 1995(4) shall be amended as follows—

- (a) paragraph (2)(a) to (e) shall be omitted;
- (b) in paragraph (2), after sub-paragraph (k) there shall be inserted—

“(l) the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations (Northern Ireland) 1998.”;

- (c) in paragraph (3), for the words from “regulated by” to “unless,” there shall be substituted “regulated by Part III of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations (Northern Ireland) 1998, unless,”.

(4) The Products of Animal Origin (Import and Export) Regulations (Northern Ireland) 1998 shall be amended as follows—

- (a) in regulation 2(1)—

- (i) the definitions of “bivalve molluscs” and “other shell fish” shall be omitted;
- (ii) for the definition of “fishery products” there shall be substituted—

““fishery products” has the same meaning as in the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations (Northern Ireland) 1998;”,  
and

- (iii) after the definition of “importer” there shall be inserted—

““live shellfish” has the same meaning as in the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations (Northern Ireland) 1998;”;

- (b) in each of the following provisions—

- (i) regulation 20(1),
- (ii) regulation 21(1) and (2),
- (iii) regulation 22(b) and (c),

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(2) S.R. 1992 No. 167, as amended by S.R. 1993 No. 423, S.R. 1994 No. 346, S.R. 1995 No. 201 and S.R. 1997 Nos. 493, 494, 495 and 496

(3) S.R. 1995 No. 360, as amended by S.R. 1996 No. 286 and S.R. 1997 Nos. 493, 494, 495 and 496

(4) S.R. 1995 No. 377, as amended by S.R. 1996 No. 383 and S.R. 1997 Nos. 493, 494 and 495

- (iv) regulation 23(3), and
  - (v) regulation 24(3),
- “bivalve molluscs or other” shall be omitted; and
- (c) in Schedule 2—
    - (i) paragraphs 1 and 2 shall be omitted; and
    - (ii) after paragraph 5 there shall be inserted—
      - “6. The Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations (Northern Ireland) 1998 (S.R. 1998 No. 207).”.

### **Revocations and transitional provision**

**59.**—(1) The Regulations specified in column (1) of Schedule 5 are hereby revoked to the extent specified in column (3) of that Schedule.

(2) Any premises (which includes vessels) recognised immediately before the commencement of these Regulations as registered or approved by a district council in accordance with any of the Regulations revoked by paragraph (1) shall be treated as registered or (as the case may be) approved in accordance with and for the purposes of these Regulations.