
STATUTORY INSTRUMENTS

1992 No. 3165

FOODFOOD SAFETY

**The Food Safety (Fishery Products
on Fishing Vessels) Regulations 1992**

<i>Made</i>	- - - -	<i>11th December 1992</i>
<i>Laid before Parliament</i>		<i>11th December 1992</i>
<i>Coming into force</i>		
<i>for the purposes of</i>		
<i>regulations 4 and 5</i>		<i>18th December 1992</i>
<i>for all other purposes</i>		<i>1st January 1993</i>

The Minister of Agriculture, Fisheries and Food and 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 the exercise of the powers conferred upon them by sections 6(4), 17(1) and 26(3) of the Food Safety Act 1990((1)) and all other powers enabling them in that behalf, after consultation in accordance with section 48(4) of that Act with such organisations as appeared 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 on Fishing Vessels) Regulations 1992 and shall come into force—

- (a) for the purposes of regulations 4 and 5, on 18th December 1992;
- (b) for all other purposes, on 1st January 1993.

Interpretation

2.—(1) In these Regulations—

“the first Directive” means Council Directive 91/493/EEC((2)), of 22nd July 1991, laying down the health conditions for the production and the placing on the market of fishery products;

(1) 1990 c. 16. Section 4(1) contains a definition of “the Ministers” which is relevant to the powers being exercised in the making of these Regulations.
(2) OJNo. L268, 24.9.1991, p. 15.

“the second Directive” means Council Directive 92/48/EEC((3)), of 16th June 1992, laying down minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1)(a)

(i) of the first Directive;

“additional hygiene conditions” means the additional hygiene conditions laid down in Annex II to the second Directive, which is set out in Part II of the Schedule to these Regulations, other than the condition specified in point 9 of that Annex;

“chilling” means any process of cooling fishery products to a temperature approaching that of melting ice;

“derogation” means the grant of a further period within which to comply fully with the relevant requirements;

“fishery products” means all seawater or freshwater animals or parts thereof, including their roes, but excluding aquatic mammals, frogs and aquatic animals covered by other Community acts;

“fishing vessel to which Article 1.2 of the second Directive applies” means a fishing vessel designed and equipped to preserve fishery products on board under satisfactory conditions for more than twenty-four hours, other than one equipped for keeping fish, shell fish and molluscs alive without other means of conservation on board;

“frozen product” means any fishery product which has undergone a freezing process;

“food authority” means an authority specified in regulation 8 as an authority which is to enforce and execute these Regulations;

“general hygiene conditions” means the conditions specified in Annex I to the second Directive, which is set out in Part I of the Schedule to these Regulations;

“prepared product” means any fishery product which has undergone an operation affecting its anatomical wholeness, such as gutting, heading, slicing, filleting or chopping;

“relevant requirements” means the requirements laid down in points 8(b) and (e) of Annex II to the second Directive.

(2) In these Regulations—

(a) a reference to a numbered regulation is a reference to the regulation in these Regulations which bears that number;

(b) a reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation which bears that number.

Hygiene conditions for fishing vessels

3.—(1) No person shall carry out on a fishing vessel any commercial operation in relation to fishery products unless the general hygiene conditions are fulfilled in relation to that vessel and the operations carried out on it.

(2) Subject to paragraph (3), no person shall carry out on a fishing vessel to which Article 1.2 of the second Directive applies any commercial operation in relation to fishery products unless the additional hygiene conditions are also fulfilled in relation to that vessel and the operations carried out on it.

(3) The provisions of paragraph (2) do not apply in relation to a vessel and a relevant requirement in so far as a derogation is in force in respect of them, provided that the vessel and the fishery products handled on it meet such of the hygiene requirements of the first Directive as are applicable to them

(3) OJ No. L187, 7.7.1992, p. 41.

.Application for a derogation

4.—(1) The proprietor of a food business which consists of or includes commercial operations with respect to fishery products carried out on a fishing vessel to which Article 1.2 of the second Directive applies may apply to the Secretary of State, before 31st December 1992, for a derogation.

- (2) An application for the purposes of paragraph (1) shall-
- (a) be made in writing;
 - (b) specify the fishing vessel and the relevant requirements in respect of which a derogation is sought; and
 - (c) be accompanied by a plan of the work intended by the proprietor together with a timetable indicating the period within which the proprietor intends that the relevant requirement the subject of the application for a derogation shall be met.

Method of determining an application for a derogation

5.—(1) After receiving an application, made in accordance with regulation 4, for a derogation in respect of a fishing vessel the Secretary of State shall send a copy of it to the food authority in whose area the fishing vessel is based.

(2) A food authority which receives a copy of an application pursuant to paragraph (1) shall invite the representations of the applicant and, after having regard to any such representations, shall send to the Secretary of State, as soon as possible, a written assessment of the need for the derogation and of the suitability of the plan of the work and the timetable.

(3) A food authority shall at the same time as providing the written assessment to the Secretary of State, send a copy of it to the applicant inviting him to send to the Secretary of State, within 8 weeks of the date on which the assessment was sent to the Secretary of State, his observations on it.

(4) After considering the assessment of the food authority and any observations made pursuant to the invitation mentioned in paragraph (3), the Secretary of State shall either grant or refuse the application for a derogation in respect of all or any of the requirements in respect of which a derogation was sought.

(5) Subject to paragraph (6) if an application for a derogation is granted the Secretary of State shall—

- (a) designate the fishing vessel and the relevant requirements in respect of which the derogation is granted; and
- (b) specify the period of the derogation, which shall not in any case expire after 31st December 1995.

(6) If an application is refused or is granted otherwise than in accordance with the application the Secretary of State shall give written notice to the applicant of the reasons for his decision.

(7) The Secretary of State shall in all cases give written notice of his decision to both the applicant and the food authority which provided the assessment.

List of vessels

6. The Ministers shall be the competent authority for the purposes of point 9 of Annex II to the second Directive (list of vessels).

Offences etc

7.—(1) A person who contravenes regulation 3(1) or regulation 3(2) shall be guilty of an offence under these Regulations and 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 two years or both.

(2) The following provisions of the Food Safety Act 1990 shall apply for the purposes of these Regulations as they apply for the purposes of sections 8, 14 and 15 of that Act and unless the context otherwise requires a reference in them to the Act shall be construed as a reference to these Regulations:

- section 20 (offences due to fault of another person);
- section 21 (defence of due diligence);
- section 30(8) (which relates to documentary evidence);
- section 33 (obstruction etc. of officers);
- section 36 (offences by bodies corporate).

Enforcement and execution

- 8.—(1) Subject to paragraph (2), these Regulations shall be enforced and executed—
- (a) as respects each London borough or district in England and Wales, by the Council of that borough or district;
 - (b) as respects the City of London (including the Temples), by the Common Council;
 - (c) as respects each islands area or district in Scotland, by the islands or district Council; and
 - (d) as respects the Isles of Scilly by the Council of the Isles of Scilly.
- (2) Where any functions are assigned—
- (a) by an order under section 2 or 7 of the Public Health (Control of Disease) Act 1984⁽⁴⁾ to a port health authority; or
 - (b) by an order under section 172 of the Public Health (Scotland) Act 1897⁽⁵⁾ to a port local authority;

these Regulations shall be enforced by that authority within its area and not by the authority mentioned in paragraph (1).

Transitional provision

9. A person who has applied before 31st December 1992 for a derogation in respect of a fishing vessel which was, on 30th June 1992, normally used for fishing activities, shall, until the application is determined, be treated as having been granted a derogation in accordance with his application.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th December 1992.

(L.S.)

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

(4) 1984 c. 22.
(5) 1897 c. 38.

Signed by authority of the Secretary of State for Health.

10th December 1992 *Cumberlege*
Parliamentary Under-Secretary of State,

10th December 1992 *David Hunt*
Secretary of State for Wales

Scottish Office *Hector Monro*
11th December 1992 Parliamentary Under-Secretary of State,

SCHEDULE

Regulation 2

PART I

annex i to the second directive

General hygiene conditions applicable to fishery products on board fishing vessels

1. The sections of vessels or the containers reserved for the storage of fishery products must not contain objects or products liable to transmit harmful properties or abnormal characteristics to the foodstuffs. These sections or containers must be so designed as to allow them to be cleaned easily and to ensure that melt water cannot remain in contact with the fishery products.
2. When used, the sections of vessels or the containers reserved for the storage of fishery products must be completely clean and, in particular, must not be capable of being contaminated by the fuel used for the propulsion of the vessel or by bilge water.
3. As soon as they are taken on board, the fishery products must be protected from contamination and from the effects of the sun or any other source of heat. When they are washed, the water used must be either fresh water complying with the parameters set out in Annexes D and E of Directive [80/778/EEC](#)(**(6)**) or clean sea water, so as not to impair their quality or wholesomeness.
4. The fishery products shall be handled and stored in such a way as to prevent bruising. The use of spiked instruments shall be tolerated for the moving of large fish or fish which might injure the handler, provided the flesh of these products is not damaged.
5. Fishery products other than those kept alive must undergo cold treatment as soon as possible after loading. However, in the case of fishing vessels where cooling is not possible from a practicable point of view, the fishery products must not be kept on board for more than 8 hours.
6. Ice used for the chilling of products must be made from drinking water or clean seawater. Before use, it must be stored under conditions which prevent its contamination.
7. After the fishery products have been unloaded, the containers, equipment and sections of vessels which are directly in contact with the fishery products must be cleaned with drinking water or clean seawater.
8. Where fish is headed and/or gutted on board, such operations must be carried out hygienically and the products must be washed immediately and thoroughly with drinking water or clean seawater. The viscera and parts which may pose a threat to public health must be removed and set apart from products intended for human consumption. Livers and roes intended for human consumption must be refrigerated or frozen.
9. Equipment used for gutting, heading and the removal of fins, and containers and equipment in contact with the fishery products, must be made of or coated with a material which is waterproof, resistant to decay, smooth and easy to clean and disinfect. When used they must be completely clean.
10. Staff assigned to the handling of fishery products shall be required to maintain a high standard of cleanliness for themselves and their clothes.

(6) OJ No. L229, 30.8.1980, p. 11. Directive as last amended by Directive [91/377/EEC](#) (OJ No. L377, 31.12.1991, p. 48).

PART II

annex ii to the second directive

Additional hygiene conditions applicable to the fishing vessels referred to in Article 1(2)

1. Fishing vessels must be equipped with holds, tanks or containers for the storage of refrigerated or frozen fishery products at the temperature laid down by Directive [91/493/EEC](#). These holds shall be separated from the machinery space and the quarters reserved for the crew by partitions which are sufficiently impervious to prevent any contamination of the stored fishery products.

2. The inside surface of the holds, tanks or containers shall be waterproof and easy to wash and disinfect. It shall consist of a smooth material or, failing that, smooth paint maintained in good condition, not being capable of transmitting to the fishery products substances harmful to human health.

3. The holds shall be designed to ensure that melt water cannot remain in contact with the fishery products.

4. Containers used for the storage of products must ensure their preservation under satisfactory conditions of hygiene and, in particular, allow drainage of melt water. When used they must be completely clean.

5. The working decks, the equipment and the holds, tanks and containers shall be cleaned each time they are used. Drinking water or clean seawater shall be used for this purpose. Disinfection, the removal of insects or rat extermination shall be carried out whenever necessary.

6. Cleaning products, disinfectants, insecticides and all potentially toxic substances shall be stored in locked premises or cupboards. Their use must not present any risk of contamination of the fishery products.

7. If fishery products are frozen on board, this operation must be carried out in accordance with the conditions laid down in Chapter IV(II)(1) and (3) of the Annex to Directive [91/493/EEC](#). Where freezing in brine is used, the brine shall not be a source of contamination for the fish.

8. Vessels equipped for chilling of fishery products in cooled seawater, either chilled by ice (CSW) or refrigerated by mechanical means (RSW), shall comply with the following requirements:

- (a) tanks must be equipped with adequate seawater filling and drainage installations and must incorporate devices for achieving uniform temperature throughout the tanks;
- (b) tanks must have a means of recording temperature connected to a temperature sensor positioned in the section of the tank where temperatures are highest;
- (c) the operation of the tank or container system must secure a chilling rate which ensures the mix of fish and seawater reaches 3C at the most 6 hours after loading and 0C at the most after 16 hours;
- (d) after each unloading, the tanks, circulation systems and containers must be completely emptied and thoroughly cleaned using drinking water or clean seawater. They should only be filled with clean seawater;
- (e) the date and the number of the tank must be clearly indicated on the temperature recordings which must be kept available for the control authorities.

9. The competent authority shall keep up to date for control purposes a list of the vessels equipped in accordance with points 7 and 8, with the exception however of vessels equipped with removable containers which, without prejudice to point 5, second sentence, Annex I, are not engaged regularly in preserving fish in chilled seawater.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

10. Shipowners or their representatives shall take all the measures necessary to prevent persons liable to contaminate fishery products from working on and handling them, until there is evidence that such persons can do so without risk.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the implementation of Council Directive 91/493/EEC of 22nd July 1991 (“the first Directive”), laying down health conditions for the production and placing on the market of fishery products and the implementation of Council Directive 92/48/EEC of 16th June 1992 (“the second Directive”), 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 first Directive.

One of the requirements of the first Directive is that fishery products have been caught and handled on board vessels in accordance with hygiene rules concerning design, equipment and its operation, established by the Council. The second Directive establishes those rules by specifying two lists of conditions. Annex I of the second Directive establishes the general hygiene conditions applicable to fishery products on board fishing vessels generally and Annex II of that Directive establishes additional hygiene conditions applicable to such vessels designed and equipped to preserve fishery products for more than twenty four hours. These provisions are implemented by regulations 2 and 3 of, and the Schedule to, the Regulations.

The second Directive also provides for Member States to grant a derogation in respect of certain of the additional requirements (relating to temperature recording equipment, its operation and related records) provided that an application for the derogation is made before 31st December 1992 (see regulation 4(1)). Regulations 4 and 5 provide for these derogations.

The Regulations provide that the Ministers shall maintain the list of vessels required by point 9 of Annex II (see regulation 6).

Contravention of regulation 3(1) and (2) is an offence and various provisions of the Food Safety Act 1990 are applied for the purposes of the Regulations (see regulation 7).

The Regulations are to be enforced in England and Wales by district councils, London borough councils and the Common Council of the City of London, in Scotland by district and islands councils, and in the Isles of Scilly by the Council of the Isles of Scilly, except within the area of port health authorities or port local authorities, where they are instead to be enforced by those authorities (see regulation 8). The Regulations also make transitional provision in connection with the determination of applications for derogations (see regulation 9). ISBN0 11 025259 4