

1990 No. 2615

**FOOD**

**The Quick-frozen Foodstuffs Regulations 1990**

*Made* - - - - - *19th December 1990*

*Laid before Parliament* *20th December 1990*

*Coming into force* *10th January 1991*

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred by sections 4(1), 6(4), 16(1), 17(1), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990 (a), and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48 of the said Act with such organisations as appear to them to be representative of interests substantially affected by the Regulations:—

**Title and commencement**

1. These Regulations may be cited as the Quick-frozen Foodstuffs Regulations 1990 and shall come into force on 10th January 1991.

**Interpretation and scope**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Food Safety Act 1990;

“catering establishment” has the meaning which it bears in the Food Labelling Regulations 1984 (b);

“prepackaging” shall be construed in accordance with the definition of “prepacked” in the Food Labelling Regulations 1984;

“quick-frozen foodstuff” means a product—

(a) comprising food which has undergone a 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

(b) which is labelled for the purpose of sale to indicate that it has undergone that process,

but shall not include ice-cream or any other edible ice; and

“ultimate consumer” has the meaning which it bears in the Food Labelling Regulations 1984.

(2) These Regulations do not apply to any food—

(a) which is not intended for sale for human consumption;

(b) which is supplied under government contracts for consumption by Her Majesty's Forces or supplied for consumption by a visiting force; or

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(a) 1990 c.16.

(b) S.I. 1984/1305, to which there are amendments not relevant to these Regulations.

- (c) which is supplied by the service authorities of a visiting force and to a headquarters or to members of such a force or headquarters or to property held or used by such force or headquarters.
- (3) For the purposes of paragraph (2) above—
  - (a) “visiting force” (for the purpose of sub-paragraph (b)) and “service authority” (for the purpose of sub-paragraph (c)) shall have the meanings assigned to them, for the purposes of any provision in Part I of the Visiting Forces Act 1952(a), by section 12 of that Act;
  - (b) “visiting force” and “headquarters” shall for the purpose of sub-paragraph (c) have the meanings assigned to them by article 3(2) of the Visiting Forces and International Headquarters (Application of Law) Order 1965(b).

**Sale of quick-frozen foodstuffs**

3. No person shall sell for human consumption a quick-frozen foodstuff unless it fulfils the conditions set out in the Schedule to these Regulations.

**Packaging of quick-frozen foodstuffs intended for supply to the ultimate consumer**

4. No person shall sell any quick-frozen foodstuff to the ultimate consumer unless—
- (a) it has been packed by its manufacturer or packer in such prepackaging as is suitable to protect it from microbial and other forms of external contamination and against dehydration, and
  - (b) the quick-frozen foodstuff has remained in such prepackaging up to the time of sale.

**Labelling of quick-frozen foodstuffs**

5.—(1) The description “quick-frozen” or any other description listed in Article 8.1(a) of Council Directive 89/108/EEC(c) shall not be used in the labelling for the purpose of sale of any food other than—

- (a) a quick-frozen foodstuff,
- (b) a food which by virtue of that labelling becomes a quick-frozen foodstuff.

(2) A quick-frozen foodstuff intended for supply, without further processing, to the ultimate consumer or to a catering establishment shall, in addition to the description “quick-frozen” (and, as the intending supplier may see fit, any other description listed in Article 8.1(a) of Council Directive 89/108/EEC) added to its sales name, be marked or labelled on its packaging, container or wrapping, or on a label attached thereto with—

- (a) an indication of the date of minimum durability;
- (b) an indication of the maximum period during which it is advisable to store it;
- (c) an indication of one or other, or both, of—
  - (i) the temperature at which, and
  - (ii) the equipment in which, it is advisable to store it;
- (d) a reference allowing identification of the batch to which it belongs;
- (e) a clear message of the type “do not refreeze after defrosting”.

(3) Any other quick-frozen foodstuff shall, in addition to the description “quick-frozen” (and, as the supplier may see fit, any other description listed in Article 8.1(a) of Council Directive 89/108/EEC) added to its sales name, be marked or labelled on its packaging, container or wrapping, or on a label attached thereto with—

- (a) a reference allowing identification of the batch to which it belongs;
- (b) the name or business name and address of the manufacturer or packer, or of a seller established within the European Economic Community.

(a) 1952 c.67; the definition of “visiting force” in section 12 was amended by the Criminal Justice Act 1988 (c.33), section 170 and Schedule 15, paragraph 14.

(b) S.I. 1965/1536, amended by the Pakistan Act 1973 (c.48), section 4; relevant amending instruments are S.I. 1987/928, 1989/1330.

(c) OJ No. L40, 11.2.89, p.34.

(4) No person shall sell any food to the ultimate consumer or any catering establishment where its labelling or marking contravenes paragraph (1) or (2) of this regulation, and no person shall sell it to any other person where its labelling or marking contravenes paragraph (1) or (3) of this regulation.

#### **Equipment**

6. Each manufacturer, storer, transporter, local distributor and retailer of any quick-frozen foodstuff intended by him for sale for human consumption shall ensure during each stage during which such foodstuff is within his care and control that the equipment used in respect of that foodstuff is such as to ensure that no act or omission on his part would cause a sale of the foodstuff for human consumption to contravene these Regulations.

#### **Penalties and enforcement**

7.—(1) If any person contravenes or fails to comply with any of the foregoing provisions of these Regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Each food authority shall enforce and execute these Regulations within its area.

(3) In this regulation "food authority" does not include the appropriate treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple).

#### **Application of various provisions of the Food Safety Act 1990**

8. The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and, unless the context otherwise requires, any reference in them to the Act shall be construed for the purposes of these Regulations as a reference to these Regulations—

- (a) section 2 (extended meaning of "sale" etc.);
- (b) section 3 (presumption that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence);
- (e) section 30(8) (which relates to documentary evidence);
- (f) section 33 (obstruction etc. of officers);
- (g) section 36 (offences by bodies corporate);
- (h) section 44 (protection of officers acting in good faith);
- (i) section 58(1) (which relates to territorial waters).

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 19th December 1990.



*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

19th December 1990

*Stephen Dorrell*  
Parliamentary Under Secretary of State for Health

19th December 1990

*David Hunt*  
Secretary of State for Wales

18th December 1990

*Strathclyde*  
Parliamentary Under Secretary of State,  
Scottish Office

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## SCHEDULE

Regulation 3

### CONDITIONS WHICH MUST BE FULFILLED BY A QUICK-FROZEN FOODSTUFF WHICH IS SOLD FOR HUMAN CONSUMPTION

1. A quick-frozen foodstuff fulfils the conditions set out in this Schedule where—
  - (a) it has been manufactured from raw materials of sound, genuine and merchantable quality and no other materials,
  - (b) no raw material has been used in its manufacture unless, at the time of its use, it would have been lawful for it to be sold for human consumption,
  - (c) its preparation and quick-freezing have been carried out with sufficient promptness, and by use of technical equipment appropriate, to minimise any chemical, biochemical and microbiological changes to the food comprised in it,
  - (d) no cryogenic medium other than an authorised cryogenic medium has been used in direct contact with any food comprised in it,
  - (e) the quick-freezing of each food comprised in it has resulted in the temperature of that food after thermal stabilisation being  $-18^{\circ}\text{C}$  or colder, and
  - (f) following the quick-freezing and thermal stabilisation of any food to which sub-paragraph (e) above applies the temperature of that food has been maintained or has, save during the application of any one or more of the permitted exceptions, been maintained at a level or levels no warmer than  $-18^{\circ}\text{C}$ .
2. For the purposes of this Schedule—
  - (a) the authorised cryogenic media are—
    - (i) air,
    - (ii) nitrogen,
    - (iii) carbon dioxide, and
    - (iv) in the appropriate circumstances, the substance dichlorodifluoromethane (R12),
  - (b) the appropriate circumstances apply to the substance dichlorodifluoromethane (R12) where—
    - (i) that substance has been used in direct contact with a food comprised in a product which has become a quick-frozen foodstuff no later than 31st December 1992, and

- (ii) its use in such contact is permitted in England and Wales by the Miscellaneous Additives in Food Regulations(a) , and in Scotland by the Miscellaneous Additives in Food (Scotland) Regulations(b) ,
  - (c) a permitted exception relating to the temperature of any food applies when—
    - (i) that food is kept within brief periods during transport other than local distribution at a temperature warmer than  $-18^{\circ}\text{C}$  but not warmer than  $-15^{\circ}\text{C}$ ,
    - (ii) that food is kept during local distribution at a temperature warmer than  $-18^{\circ}\text{C}$  to an extent consistent with good distribution practice but not warmer than  $-12^{\circ}\text{C}$  before 10th January 1997 or  $-15^{\circ}\text{C}$  at any time thereafter,
    - (iii) that food is kept before 10th January 1997 in a retail display cabinet at a temperature warmer than  $-18^{\circ}\text{C}$  to an extent consistent with good storage practice, or
    - (iv) that food is kept after 9th January 1997 in a retail display cabinet at a temperature warmer than  $-18^{\circ}\text{C}$  to an extent consistent with good storage practice but not warmer than  $-12^{\circ}\text{C}$ , and
  - (d) “local distribution”, in relation to any product, means that part of the distribution chain in which the product is delivered to the point of retail sale (such sale to include sale to a catering establishment).
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(a) S.I. 1980/1834, to which there are amendments not relevant to these Regulations.

(b) S.I. 1980/1889, to which there are amendments not relevant to these Regulations.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply to Great Britain, implement Council Directive 89/108/EEC (OJ No. L40, 11.2.89, p.34) on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption.

### The Regulations—

- (a) define a quick-frozen foodstuff (Regulation 2),
- (b) list the conditions which must be fulfilled by a quick-frozen foodstuff for it to be sold for human consumption (Regulation 3 and the Schedule),
- (c) lay down the packaging requirements for a quick-frozen foodstuff (Regulation 4),
- (d) lay down the labelling requirements for a quick-frozen foodstuff (Regulation 5),
- (e) lay down requirements for the standards of equipment which must be used by those who have care and control of a quick-frozen foodstuff at any stage in its life from manufacture to retail sale (Regulation 6).

The Regulations come into force on the 10th January 1991.

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