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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 597**

**FOOD**

**The Fishery Products (Official Controls Charges) (Scotland) Regulations 2005**

*Made* - - - - 24th November 2005  
*Laid before the Scottish Parliament* - - - - 29th November 2005  
*Coming into force* - - 1st January 2006

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and of all other powers enabling them in that behalf, and after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(2)</sup>, hereby make the following Regulations:

PROSPECTIVE

**PART I**  
**PRELIMINARY**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Fishery Products (Official Controls Charges) (Scotland) Regulations 2005 and come into force on 1st January 2006.

(2) These Regulations extend to Scotland only.

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(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), (“the 1998 Act”), Schedule 8, paragraph 15(3). The function conferred on a Minister of the Crown under section 2(2) of the 1972 Act, so far as exercisable within devolved competence, was transferred to the Scottish Ministers by section 53 of the 1998 Act. In so far as not so transferred and in so far as relating to food (including drink) including the primary production of food, that function was transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

(2) O.J. No. L 31, 1.2.02, p.1, as last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council, (O.J. No. L 245, 29.9.03, p.4).

*Status: This version of this Instrument contains provisions that are prospective.*

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Fishery Products (Official Controls Charges) (Scotland) Regulations 2005*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

## Commencement Information

**II** Reg. 1 in force at 1.1.2006, see [reg. 1\(1\)](#)

## Interpretation

### 2. In these Regulations–

“chilled” means cooled to a temperature approaching that of melting ice;

“competent authority” means the Food Standards Agency, or such other person to whom the functions of competent authority may have been delegated, or with whom arrangements as to the exercise of those functions have been made, by the Food Standards Agency in accordance with regulation 4 of the Food Hygiene (Scotland) Regulations 2005<sup>(3)</sup>;

“Directive 2004/41”, “Regulation 178/2002”, “Regulation 852/2004”, “Regulation 853/2004”, “Regulation 854/2004”, “Regulation 882/2004” and “Regulation 1688/2005” have the meanings respectively given to them in the Schedule;

“EEA State” means a member State, Norway, Iceland or Liechtenstein;

“employers' National Insurance contributions” means those social security contributions for which employers are liable under Part I of the Social Security Contributions and Benefits Act 1992<sup>(4)</sup>;

“establishment” has the meaning given to it in Article 2.1(c) of Regulation 852/2004;

“factory vessel” and “fishery products” have the meanings respectively given to them in points 3.2 and 3.1 of Annex I to Regulation 853/2004;

“food authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(5)</sup>;

“imported” means introduced into Scotland other than from another part of the British Islands;

“official controls” shall be construed in accordance with the definition of the term “official control” in Article 2.1 of Regulation 882/2004;

“placing on the market” has the meaning given to it in Article 3.8 of Regulation 178/2002;

“processing” has the meaning given to it in Article 2.1(m) of Regulation 852/2004;

“processing establishment” means an establishment at which processing occurs;

“relevant fishery products” means imported fishery products which–

- (a) originate in a third country;
- (b) were caught in their natural environment;
- (c) have not been on land prior to their proposed importation, or had not been on land prior to their importation, into an EEA State or Greenland;
- (d) are or will be landed in Scotland; and
- (e) are intended for placing on the market for human consumption;

“relevant food authority” means the food authority in whose area circumstances giving rise to an obligation under these Regulations to pay a charge to the relevant food authority arise;

“relevant landed fishery products” means fishery products which–

- (a) were caught in their natural environment;

<sup>(3)</sup> S.S.I. 2005/505.

<sup>(4)</sup> 1992 c. 4.

<sup>(5)</sup> 1994 c. 39. Section 2 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 232.

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- (b) have not or had not been on land prior to being landed;
- (c) are or will be landed in Scotland; and
- (d) are intended for placing on the market for human consumption, other than relevant fishery products being sold for the first time in Scotland and third country imports;

“specified pelagic fish” means–

- (a) herring of the species *Clupea harengus*;
- (b) sardines of the species *Sardinia pilchardus*;
- (c) mackerel of the species *Scomber scombrus* or *Scomber japonicus*;
- (d) horse mackerel;
- (e) anchovies; and
- (f) picarels of the species *Maena smaris*;

“third country”, except in the expression “third country import”, means any country or territory, other than Greenland, which does not comprise the whole or part of an EEA State;

“third country import” means an import in respect of which a charge is payable under regulation 48(1) of the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2002(6); and

“vendor” means–

- (a) where an agent sells fishery products on behalf of the owner or master of a vessel, that agent; and
- (b) in any other case, the owner or master of the vessel.

#### **Commencement Information**

**I2** Reg. 2 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### **Actual costs**

**3.—(1)** For the purposes of these Regulations, the actual costs of exercising official controls are the aggregate of costs of the types specified in paragraph (2) directly incurred in the exercise of the official controls required under Annex III to Regulation 854/2004.

(2) The types of costs are–

- (a) the salaries and fees, including overtime payments and employers' pension contributions and employers' National Insurance contributions, of all staff directly involved in the exercise of the controls and of all staff engaged in the management or administration of the controls;
- (b) the costs of in-service training for staff directly involved in the exercise of the controls;
- (c) travelling costs and related incidental expenses incurred in exercising the controls, except those incurred by a person attending their normal place of work;
- (d) the costs of office accommodation, equipment and services for staff involved in exercising the controls, including depreciation of any office furniture and equipment and the cost of information technology, stationery and forms;
- (e) the costs of protective clothing and equipment used in exercising the controls;

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- (f) the costs of laundering protective clothing used in exercising the controls;
- (g) sampling and analysis costs incurred in exercising the controls; and
- (h) the routine administrative costs of accounting and collecting charges and of providing pay-roll and personnel services in connection with the employment of staff exercising the controls.

#### Commencement Information

**I3** Reg. 3 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Sterling equivalents of Euro

4.—(1) Any reference in these Regulations to a specified number of Euro shall be deemed to be a reference to the Sterling equivalent of that number calculated in accordance with paragraph (2).

(2) The Sterling equivalent of a specified number of Euro shall be calculated by multiplying that number by the Euro/Sterling conversion rate specified in paragraph (3).

(3) The Euro/Sterling conversion rate is—

- (a) for 2006, 1 Euro = £0.68290; and
- (b) in each subsequent year, the rate published in the C Series of the Official Journal of the European Communities on the first working day of the September of the preceding year or, if no rate is published in it on that day, the first rate published in it thereafter.

#### Commencement Information

**I4** Reg. 4 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Account period

5.—(1) For the purposes of these Regulations, the account period shall be 1 month or such longer period not exceeding 12 months as is determined by the relevant food authority.

(2) The account period shall be determined with a view to reducing to a reasonable amount, in comparison with the charges which are expected to fall due, the costs of—

- (a) making returns; and
- (b) collecting charges.

#### Commencement Information

**I5** Reg. 5 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Recovery of charges

6. Where any duty is imposed under these Regulations on more than one person, the authority to which the duty is owed may enforce that duty—

- (a) jointly against any two or more of them, or
- (b) separately against any one of them.

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### Commencement Information

**I6** Reg. 6 in force at 1.1.2006, see [reg. 1\(1\)](#)

### Calculation, payment and repayment of charges

7.—(1) Where a relevant food authority or the competent authority becomes aware that a charge is due to it under these Regulations it shall—

- (a) calculate the amount of the charge having regard to the information in its possession;
- (b) give notice of the amount so calculated to any person from whom it may be collected; and
- (c) seek recovery of the amount so notified from that person.

(2) If such an authority is satisfied that a calculation made under paragraph (1) is incorrect, it shall recalculate the charge and notify the recalculated charge to any person from whom it may be collected.

(3) Where a recalculated charge is notified under paragraph (2) and—

- (a) the recalculated charge is more than the amount notified under paragraph (1), the authority shall recover the recalculated charge;
- (b) the recalculated charge is less than the amount notified under paragraph (1) and that amount has not been recovered, the authority shall recover the lesser amount; or
- (c) the recalculated charge is less than the amount notified under paragraph (1) or no charge is payable and, in either case, the amount notified under paragraph (1) has been recovered, the authority shall repay the difference between the recalculated charge and the amount recovered.

### Commencement Information

**I7** Reg. 7 in force at 1.1.2006, see [reg. 1\(1\)](#)

### Appeals

8.—(1) A person may appeal to the sheriff against any decision of a relevant food authority or the competent authority imposing a charge under these Regulations.

(2) Section 37(4) to (6) of the Food Safety Act 1990<sup>(7)</sup> shall apply in relation to an appeal under paragraph (1) as it applies in relation to an appeal under section 37(1)(c) of that Act.

(3) On an appeal under paragraph (1), the sheriff may—

- (a) confirm the decision of the authority imposing the charge;
- (b) determine any charge which is payable under these Regulations and, in particular, may reduce the amount of any charge by 55% where the authority concerned is required to make that reduction under regulation 11, 14, 18 or 22 but has not done so; or
- (c) determine that no charge is payable.

(4) Pending the outcome of an appeal under paragraph (1) the original amount of the charge shall remain payable, but if pursuant to the sheriff's decision the amount of the charge is recalculated, the recalculated charge shall be payable to the authority concerned from the date on which the original charge was made.

(7) 1990 c. 16.

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(5) If the sheriff determines that the amount of any charge imposed under these Regulations is less than the amount which any person has paid to an authority in respect of it, the overpayment shall be reimbursed by that authority.

#### Commencement Information

**18** Reg. 8 in force at 1.1.2006, see [reg. 1\(1\)](#)

### Charges payable to more than one food authority

9. In any case where the exercise of official controls is deferred and the food authority responsible for the exercise of official controls on vessels and on conditions of landing (“authority A”), or the food authority responsible for the exercise of official controls required under Chapter II of Annex III to Regulation 854/2004 (“authority B”), is not the relevant food authority to which a charge is required to be paid under these Regulations (“authority C”), authority C shall remit—

- (a) to authority A, a sum equal to any amount received by authority C which is referable to official controls exercised by authority A; and
- (b) to authority B, a sum equal to any amount received by authority C which is referable to official controls exercised by authority B.

#### Commencement Information

**19** Reg. 9 in force at 1.1.2006, see [reg. 1\(1\)](#)

## PART II

### OFFICIAL CONTROLS CHARGES OTHER THAN CHARGES FOR DIRECT LANDINGS FROM THIRD COUNTRY VESSELS AND FOR THIRD COUNTRY IMPORTS

#### General landings charge

10.—(1) The first sale in Scotland of relevant landed fishery products shall be a chargeable transaction for the purposes of this Part.

(2) Where there is a chargeable transaction, the vendor shall include in the price which the purchaser is charged an amount equal to the charge referred to in this Part as “the general landings charge”.

(3) Subject to paragraph (4) and regulation 11, the amount of the general landings charge shall be a contribution in respect of the expenditure incurred in exercising the official controls required under Chapter II of Annex III to Regulation 854/2004 and shall be 1 Euro per tonne for the first 50 tonnes of relevantly landed fishery products and 0.5 Euro per tonne for each additional tonne of such products.

(4) Where the actual costs attributable to the exercise of official controls in relation to an unloaded consignment of specified pelagic fish do not exceed 50 Euro, the general landings charge in respect of that consignment shall not exceed that amount.

(5) The general landings charge shall be payable to the relevant food authority by the vendor.

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#### Commencement Information

**I10** Reg. 10 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Reduction of the general landings charge

**11.** The relevant food authority to which a charge is payable under regulation 10(5) shall reduce that charge by 55% where any of the official controls required under Chapter II of Annex III to Regulation 854/2004 are facilitated on the basis that—

- (a) the fish are graded for freshness or size in accordance with relevant national or Community rules; or
- (b) the first sale transactions are grouped together.

#### Commencement Information

**I11** Reg. 11 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Collection and remittance of charges relating to general landings

**12.—(1)** Within 7 days of the end of each account period in which a vendor enters into a chargeable transaction, the vendor shall make a written return in respect of that transaction to the relevant food authority to which the general landings charge is payable.

(2) The return shall give information which relates to the chargeable transaction entered into during that account period or, if there has been more than one such transaction, information in respect of the aggregate of the transactions.

(3) A return made under this paragraph shall include the following information—

- (a) the account period to which the return relates;
- (b) the place of landing and first sale of the fishery products to which it relates; and
- (c) for landings of fishery products other than specified pelagic fish—
  - (i) the name of each vessel and the number of consignments landed from it,
  - (ii) the aggregate weight of consignments landed by each vessel which do not exceed 50 tonnes and the first 50 tonnes of consignments the weight of which exceeds that amount, and
  - (iii) the aggregate weight of consignments less the weight calculated under paragraph (ii);
- (d) for landings of specified pelagic fish—
  - (i) the name of each vessel and the number of consignments landed from it, and
  - (ii) the aggregate weight of consignments landed by each vessel which do not exceed 50 tonnes and the first 50 tonnes of consignments the weight of which exceeds that amount;
- (e) the amount of any reduction under regulation 11 which has been made in respect of—
  - (i) consignments of fish consisting only of fish other than specified pelagic fish, and
  - (ii) consignments of specified pelagic fish only,specifying under which of paragraphs (a) or (b) of that regulation that reduction has been made; and

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(f) the amount of the general landings charge.

(4) During the period of 1 year beginning on the day on which a vendor makes a return under this regulation—

- (a) the relevant food authority to which it was made may require the vendor to provide separate information of the kind required by paragraph (3) in respect of each transaction included in it; and
- (b) the vendor shall retain records which are sufficient to enable any such information to be supplied on request.

#### Commencement Information

I12 Reg. 12 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Charge for fishery products landed from factory vessels

13.—(1) Subject to paragraph (2), a charge of 1 Euro per tonne of fishery products which is landed shall be payable to the relevant food authority by the owner or master of a factory vessel, by way of contribution in respect of the expenditure incurred by that authority in exercising the official controls required under Annex III to Regulation 854/2004.

(2) The charge payable under paragraph (1) shall be payable in addition to the charge payable under regulation 10 but shall not apply in relation to third country imports or relevant fishery products which are sold for the first time in Scotland.

#### Commencement Information

I13 Reg. 13 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Reduction of the charge in respect of products landed from factory vessels

14. The relevant food authority to which a charge is payable under regulation 13(1) shall reduce that charge by 55% where—

- (a) first sale and preparation or processing is carried out on the same factory vessel; or
- (b) operating conditions on a factory vessel, and guarantees as to the vessel's own checks, are such that inspection staff requirements can be reduced.

#### Commencement Information

I14 Reg. 14 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Collection and remittance of the factory vessel charge

15.—(1) Within 7 days of the end of each account period in which fishery products in respect of which a charge is payable under regulation 13(1) have been landed from a factory vessel, the owner or master of the vessel who is responsible for paying that charge shall make a written return in respect of it to the relevant food authority to which it is payable.

(2) The return shall give information which relates to the landing of fishery products from a factory vessel during that account period or, if there has been more than one such landing, information in respect of the aggregate of them.



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- (3) A return made under this paragraph shall include the following information—
- (a) the account period to which the return relates;
  - (b) the name of each factory vessel from which fishery products are landed and each place of landing;
  - (c) the number of landings during that account period;
  - (d) the weight of the fishery products landed;
  - (e) the amount of any reduction made under regulation 14, specifying under which of paragraphs (a) or (b) of that regulation that reduction has been made; and
  - (f) the amount of the charge payable under regulation 13(1).
- (4) During the period of 1 year beginning on the day on which an owner or master makes a return under this regulation—
- (a) the relevant food authority to which the return was made may require the owner or master to provide separate information of the kind required by paragraph (3) in respect of each landing included in it; and
  - (b) the owner or master shall retain records which are sufficient to enable any such information to be supplied.

#### Commencement Information

I15 Reg. 15 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Charge in respect of factory vessels abroad

16. The owner or master of a factory vessel shall pay to the competent authority the actual costs incurred by that authority in exercising the official controls required under paragraphs 2(c) and 3(a) (insofar as they apply in relation to factory vessels) and 3(b) of Chapter I of Annex III to Regulation 854/2004.

#### Commencement Information

I16 Reg. 16 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Charge in respect of preparation or processing establishments

17. A charge of 1 Euro per tonne of fishery products entering a preparation or processing establishment shall be payable to the relevant food authority by the proprietor or operator of that establishment, by way of contribution in respect of the expenditure incurred by that authority in exercising the official controls required under Annex III to Regulation 854/2004 in respect of that establishment.

#### Commencement Information

I17 Reg. 17 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Reduction of the charge in respect of preparation or processing establishments

18. The relevant food authority to which a charge is payable under regulation 17 shall reduce that charge by 55% where preparation or processing is carried out—

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- (a) on the same site as the first sale; or
- (b) in an establishment in which operating conditions and guarantees as to the establishment's own checks are such that inspection staff requirements can be reduced.

#### Commencement Information

**I18** Reg. 18 in force at 1.1.2006, see [reg. 1\(1\)](#)

### Collection and remittance of charges relating to preparation or processing establishments

**19.**—(1) Within 7 days of the end of each account period in which fishery products have entered a preparation or processing establishment, the proprietor or operator who is responsible for paying the charge under regulation 17 relating to that establishment shall make a written return in respect of that charge to the relevant food authority to which it is payable.

(2) The return shall give information which relates to the fishery products which have entered that establishment during that account period.

(3) A return made under this regulation shall include the following information—

- (a) the account period to which the return relates;
- (b) the weight of the fishery products entering the establishment;
- (c) the amount of any reduction made under regulation 18, specifying under which of paragraphs (a) or (b) of that regulation that reduction has been made; and
- (d) the amount of the charge payable under regulation 17.

(4) During the period of 1 year beginning on the day on which a proprietor or operator makes a return under this regulation—

- (a) the relevant food authority to which the return was made may require the proprietor or operator to provide separate information of the kind required by paragraph (3) in respect of each batch of fishery products included in it; and
- (b) the proprietor or operator shall retain records which are sufficient to enable any such information to be supplied.

#### Commencement Information

**I19** Reg. 19 in force at 1.1.2006, see [reg. 1\(1\)](#)

### Charges in respect of other establishments

**20.** The proprietor of an establishment in which fishery products are only chilled, frozen, packaged or stored shall pay to the relevant food authority the actual costs incurred by that authority in carrying out a programmed inspection for the purposes of the official controls required under Annex III to Regulation 854/2004.

#### Commencement Information

**I20** Reg. 20 in force at 1.1.2006, see [reg. 1\(1\)](#)

## PART III

### OFFICIAL CONTROLS CHARGES FOR DIRECT LANDINGS FROM THIRD COUNTRY VESSELS

#### Charge in respect of official checks on third country direct landings

**21.**—(1) When any relevant fishery products are sold for the first time in Scotland (referred to in this Part as a “chargeable transaction”), the vendor shall include in the price which the purchaser is required to pay for them an amount equal to the charge referred to in this Part as “the third country direct landings charge”.

(2) Subject to regulation 22, the amount of the third country direct landings charge shall be—

- (a) in respect of the expenditure incurred in exercising the official controls required under Chapter II of Annex III to Regulation 854/2004, 1 Euro per tonne of relevant fishery products for the first 50 tonnes and 0.5 Euro per tonne for each additional tonne of such products, except that where the actual costs attributable to the exercise of the official controls in relation to an unloaded consignment of specified pelagic fish do not exceed 50 Euro, the third country direct landings charge in respect of that consignment shall not exceed that amount; and
- (b) in respect of the expenditure incurred in exercising official controls on vessels and on conditions of landing, 1 Euro per tonne.

(3) The third country direct landings charge shall be payable to the relevant food authority by the vendor.

#### Commencement Information

**I21** Reg. 21 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Reduction of the third country direct landings charge

**22.** The relevant food authority to which a charge is payable under regulation 21(3) shall reduce by 55% the part of the third country direct landings charge which is calculated in accordance with regulation 21(2)(a) where any of the official controls required under Chapter II of Annex III to Regulation 854/2004 are facilitated on the basis that—

- (a) the fish are graded for freshness and/or size in accordance with relevant national or Community rules; or
- (b) the first sale transactions are grouped together.

#### Commencement Information

**I22** Reg. 22 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Collection and remittance arrangements

**23.**—(1) A vendor who has entered into a chargeable transaction shall within 7 days of the end of the account period during which the chargeable transaction took place make a return in respect of it to the relevant food authority to which the third country direct landings charge is payable or, if there has been more than one such transaction, information in respect of the aggregate of the transactions.

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- (2) The vendor shall include in that return the following information–
- (a) the account period to which the return relates;
  - (b) the place of landing and first sale of the fishery products to which it relates;
  - (c) for landings of fishery products other than specified pelagic fish–
    - (i) the name of each vessel and the number of consignments landed from it,
    - (ii) the aggregate weight of consignments landed by each vessel which do not exceed 50 tonnes and the first 50 tonnes of consignments the weight of which exceeds that amount, and
    - (iii) the aggregate weight of consignments less the weight calculated under paragraph (ii);
  - (d) for landings of specified pelagic fish–
    - (i) the name of each vessel and the number of consignments landed from it, and
    - (ii) the aggregate weight of consignments landed by each vessel which do not exceed 50 tonnes and the first 50 tonnes of consignments the weight of which exceeds that amount;
  - (e) the amount of any reduction made under regulation 22 in respect of–
    - (i) consignments of fish consisting only of fish other than specified pelagic fish, and
    - (ii) consignments of specified pelagic fish only,specifying under which of paragraphs (a) or (b) of that regulation that reduction has been made; and
  - (f) the amount of the third country direct landings charge.
- (3) The vendor shall, in addition to the information required under paragraph (2), include in the return information on–
- (a) the total weight of all fishery products landed, including specified pelagic fish; and
  - (b) the amount of the charge in respect of those products.

**Commencement Information**

**I23** Reg. 23 in force at 1.1.2006, see [reg. 1\(1\)](#)

St Andrew's House, Edinburgh  
24th November 2005

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

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PROSPECTIVE

## SCHEDULE

Regulation 2

### DEFINITIONS OF COMMUNITY LEGISLATION

#### Commencement Information

**I24** Sch. in force at 1.1.2006, see [reg. 1\(1\)](#)

“Directive 2004/41” means Directive [2004/41/EC](#) of the European Parliament and of the Council repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives [89/662/EEC](#) and [92/118/EEC](#) and Council Decision [95/408/EC](#)(**8**);

“Regulation 178/2002” means Regulation [\(EC\) No. 178/2002](#) of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**9**) as last amended by Regulation [\(EC\) No. 1642/2003](#) of the European Parliament and of the Council amending Regulation [\(EC\) No. 178/2002](#) laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**10**);

“Regulation 852/2004” means Regulation [\(EC\) No. 852/2004](#) of the European Parliament and of the Council on the hygiene of foodstuffs(**11**) as read with Regulation 1688/2005;

“Regulation 853/2004” means Regulation [\(EC\) No. 853/2004](#) of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(**12**) as read with Directive 2004/41 and Regulation 1688/2005;

“Regulation 854/2004” means Regulation [\(EC\) No. 854/2004](#) of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption(**13**) as amended by Regulation 882/2004 and as read with Directive 2004/41;

“Regulation 882/2004” means Regulation [\(EC\) No. 882/2004](#) of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(**14**); and

“Regulation 1688/2005” means Commission Regulation [\(EC\) No. 1688/2005](#) implementing Regulation [\(EC\) No. 853/2004](#) of the European Parliament and of the Council as regards

(8) O.J. No. L 157, 30.4.04, p.33. The revised text of Directive [2004/41/EC](#) is now set out in a Corrigendum (O.J. No. L 195, 2.6.04, p.12).

(9) O.J. No. L 31, 1.2.02, p.1.

(10) O.J. No. L 245, 29.9.03, p.4.

(11) O.J. No. L 139, 30.4.04, p.1. The revised text of Regulation [\(EC\) No. 852/2004](#) is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.3).

(12) O.J. No. L 139, 30.4.04, p.55. The revised text of Regulation [\(EC\) No. 853/2004](#) is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.22).

(13) O.J. No. L 155, 30.4.04, p.206. The revised text of Regulation [\(EC\) No. 854/2004](#) is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.83).

(14) O.J. No. L 165, 30.4.04, p.1. The revised text of Regulation [\(EC\) No. 882/2004](#) is now set out in a Corrigendum (O.J. No. L 191, 28.5.04, p.1).

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Fishery Products (Official Controls Charges) (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs<sup>(15)</sup>.

PROSPECTIVE

## EXPLANATORY NOTE

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

These Regulations extend to Scotland only. They implement the provisions of Council Directive [85/73/EC](#) on the financing of veterinary inspections and controls that, following reforms to the Community regime on food hygiene that take effect on 1st January 2006, require fees to be collected for inspections of and controls on fishery products under Annex III to Regulation [\(EC\) No. 854/2004](#) of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (O.J. No. L 139, 30.4.04, p.206; the revised text of which is now set out in a Corrigendum, O.J. No. L 226, 25.6.04, p.83). An amended and consolidated text of Council Directive [85/73/EC](#) is annexed to Council Directive [96/43/EC](#) at O.J. No. L 162, 1.7.96, p.1.

Prior to 1st January 2006, Council Directive [85/73/EC](#) requires fees to be collected for inspections of and controls on fishery products under Council Directive [91/493/EEC](#) (O.J. No. L 268, 24.9.91, p.15). In the light of the reforms mentioned above, Directive [2004/41/EC](#) of the European Parliament and of the Council (O.J. No. L 157, 30.4.04, p.33; the revised text of which is now set out in a Corrigendum, O.J. No. L 195, 2.6.04, p.12) modifies Council Directive [85/73/EEC](#) with effect from 1st January 2006 so that from that date it requires fees to be collected for inspections of and controls on fishery products under Annex III to Regulation [\(EC\) No. 854/2004](#).

Further to these reforms the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I.1998/994) will be revoked with effect from 1st January 2006 by the Food Hygiene (Scotland) Regulations 2005 (S.S.I. 2005/505). Schedule 4A to those Regulations implements the provisions of Council Directive [85/73/EEC](#) that currently require fees to be collected for inspections of and controls on fishery products under Council Directive [91/493/EEC](#) in relation to Great Britain.

These Regulations—

- (a) state what costs constitute the actual costs of exercising official controls for the purposes of the Regulations (regulation 3);
- (b) provide the conversion rate in order to calculate the Sterling equivalent of any sums which are specified in Euro in the Regulations (regulation 4);
- (c) prescribe how the length of an “account period” for the purposes of the Regulations is to be determined (regulation 5);
- (d) provide that where a duty is imposed under the Regulations on more than one person it may be enforced jointly or separately against such persons (regulation 6);

<sup>(15)</sup> O.J. No. L 271, 15.10.05, p.17.

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- (e) require authorities to which charges are payable under the Regulations to calculate the charges, recalculate if an error is made, give notice of amounts due to those liable to pay and seek recovery of those charges (regulation 7);
- (f) provide for an appeal to the sheriff against decisions of authorities imposing charges under the Regulations and lay down the requirements for the conduct and determination of such appeals (regulation 8);
- (g) provide for the payment of charges by one food authority to another where charges are payable to more than one authority (the term “food authority” is defined in regulation 2) (regulation 9);
- (h) require payment of a specified amount (subject to a reduction in specified circumstances) to the relevant food authority by vendors of consignments of relevant landed fishery products sold for the first time in Scotland and inclusion of that amount in the sale price (the terms “relevant food authority”, “vendor”, “relevant landed fishery products” and “fishery products” are defined in regulation 2) (regulations 10 and 11);
- (i) specify the manner in which charges relating to relevant landed fishery products payable under regulation 10 are to be collected, require the vendor to supply the relevant food
- (j) authority with returns in relation to transactions to which such charges relate and to keep records, specify the information to be contained in such returns and permit the relevant food authority to require the vendor to provide additional information (regulation 12);
- (k) require payment of a specified amount (subject to a reduction in specified circumstances) to the relevant food authority by owners or masters of factory vessels from which fishery products other than certain specified products are landed (the term “factory vessel” is defined in regulation 2) (regulations 13 and 14);
- (l) specify the manner in which charges relating to fishery products landed from factory vessels payable under regulation 13(1) are to be collected, require the owner or master of the vessel to supply the relevant food authority with returns in relation to transactions to which such charges relate and to keep records, specify the information to be contained in such returns and permit the relevant food authority to require the owner or master to provide additional information (regulation 15);
- (m) require payment of the actual costs incurred by the competent authority in exercising certain official controls on factory vessels by the owner or master of such vessels (the term “competent authority” is defined in regulation 2) (regulation 16);
- (n) require payment of a specified amount (subject to a reduction in specified circumstances) to the relevant food authority by proprietors or operators of preparation or processing establishments in relation to consignments of fishery products entering the establishment concerned (the term “processing establishment” is defined in regulation 2) (regulations 17 and 18);
- (o) specify the manner in which charges relating to the exercise of official controls in respect of preparation or processing establishments that are payable under regulation 17 are to be collected, require the proprietor or operator concerned to supply the relevant food authority with returns in relation to transactions to which such charges relate and to keep records, specify the information to be contained in such returns and permit the relevant food authority to require the proprietor or operator to provide additional information (regulation 19);
- (p) require proprietors of establishments at which fishery products are only chilled, frozen, packaged or stored to pay the actual costs incurred by the relevant food authority in carrying out certain inspections (the term “chilled” is defined in regulation 2) (regulation 20);

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- (q) require payment of a specified amount (subject to a reduction in specified circumstances) to the relevant food authority by vendors of consignments of relevant fishery products sold for the first time in Scotland and inclusion of that amount in the sale price (the term “relevant fishery products” is defined in regulation 2) (regulations 21 and 22); and
- (r) specify the manner in which charges relating to relevant fishery products are to be collected, require the vendor to supply the relevant food authority with returns in relation to transactions to which such charges relate and specify the information to be contained in such returns (regulation 23).

No regulatory impact assessment has been produced for this Instrument as it has no impact on business costs.



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**Changes and effects yet to be applied to :**

- Sch. coming into force by S.S.I. 2005/597 reg. 1(1)
- Regulations revoked by S.S.I. 2006/579 reg. 14
- reg. 1 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 2 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 3 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 4 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 5 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 6 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 7 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 8 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 9 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 10 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 11 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 12 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 13 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 14 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 15 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 16 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 17 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 18 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 19 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 20 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 21 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 22 coming into force by S.S.I. 2005/597 reg. 1(1)
- reg. 23 coming into force by S.S.I. 2005/597 reg. 1(1)