

EXECUTIVE NOTE

THE FISHERY PRODUCTS (OFFICIAL CONTROL CHARGES) (SCOTLAND) REGULATIONS 2006 S.S.I. 2006/579

1. The above instrument was made under the powers given by section 2 (2) of the European Communities Act 1972.

Policy Objectives/Background

2. The objective of Article 27 of the Official Feed and Food Controls (the OFFC Regulation) in setting out the charging provisions for hygiene inspections is to ensure that industry contributes to the costs of enforcement authorities in sampling and testing direct landings of fishery products to ensure they meet the hygiene standards set down in the EU hygiene legislation. Such products may enter Scotland without being subject to controls at point of entry and these requirements are therefore necessary to monitor these products to ensure they meet EU hygiene standards and are fit for human consumption. Directive 85/73/EEC, as last amended by Directive 96/43, (the Charging Directive), will be superseded by Article 27, which will come into force across the EU on 1 January 2007.
3. This Instrument is being made to introduce national measures effective from 1 January 2007 to reflect a change in the legal basis for the financing of official controls for hygiene inspections relating to direct landings into Scotland of fishery products to Article 27 of the OFFC Regulation. The Instrument is needed to carry forward the charging requirements in Scotland.
4. In accordance with the transitional arrangements in Article 27.3, the Instrument maintains the rates for the relevant inspection charges as set out in the Charging Directive until January 2008.
5. This instrument requires payment to local food authorities of a contribution towards the costs of carrying out hygiene inspection and analysis charges in respect of fishery products caught in their natural environment and landed directly in Scotland from:

- Member States'
 - EEA States other than Member States
 - Greenland, and
 - Third countries
6. These direct landings of fishery products are not required to enter through controlled points of entry into Scotland. The charges in respect of hygiene controls on direct landings are assessed and made in relation to the first placing on the market of fishery products, on the basis of the tonnage of fishery products that have been landed. The vendor must then make a return to the local food authority within a specified period. The authority will then levy the charge on the basis of the landing.
7. The costs contribute to the local food authority's legal obligation under Annex III to EC Regulation 853/2004 to:
- Check fishing vessels in relation to hygiene controls;
 - Check on condition of landings and first sale of fishery products;
 - Make hygiene inspections of establishments and factory vessels on conditions of approval, correct handling, cleanliness and staff hygiene, and health certification and marking; and
 - Carry out organoleptic, parasitic, chemical, contaminant (heavy metals etc) and microbiological analyses.

Legislative Background

8. The instrument is being made to continue to provide for the collection of hygiene official controls charges for direct landings in Scotland of fishery products, as required by EC legislation. It needs to come into force from 1 January 2007 when the finance provisions contained in Article 27 of Regulation (EC) 882/2004 on the OFFC Regulation take effect in all Member States and form the legal basis for charging for official controls.
9. From that date, the Fishery Products (Official Controls Charges) (Scotland) Regulations 2005, which currently provide for recovery of fish hygiene official controls charges in Scotland, will be revoked. This is because the Council Directive on which they are based, the Charging Directive, will be superseded by the OFFC Regulation from that date. The OFFC Regulation nevertheless allows the current charging arrangements to continue until 1 January 2008 and this instrument has that effect.

Consultation

10. Over 200 interested parties, including all Local Food Authorities in Scotland responsible for executing and enforcing the charging provisions, were consulted on the draft Instrument. Other Government Departments, industry and voluntary organisations were also included in the twelve week consultation.
11. A total of four responses were received with no objection to the proposals. Majority of these were requests for clarification on particular aspects of the draft Instrument.

A summary of the responses may be found at:
www.food.gov.uk/consultations/consultscot/2006/.

12. There are no changes brought in by the Instrument that are politically or legally important.

Extent

13. This instrument applies to Scotland. Parallel legislation has been developed in England, Wales and Northern Ireland.

Impact

14. A Regulatory Impact Assessment has not been prepared for this Instrument as it has no new or additional impact on business, charities or voluntary bodies. Furthermore, as the current rates for inspections are being carried forward, no change in the impact to the public sector is foreseen.

Contacts

15. Elaine McLaughlin at the Food Standards Agency Scotland Tel: 01224 288356 or e-mail: elaine.mclaughlin@foodstandards.gsi.gov.uk can answer any queries regarding the instrument.

Food Standards Agency Scotland
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