

**2005 No. 2991**

**FOOD, ENGLAND**

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

<i>Made</i>	- - - -	<i>24th October 2005</i>
<i>Laid before Parliament</i>		<i>4th November 2005</i>
<i>Coming into force</i>		<i>1st January 2006</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred on her by section 2(2) of the European Communities Act 1972(a).

The Secretary of State has been designated(b) for the purposes of that section in relation to measures relating to food (including drink) including the primary production of food.

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(c) 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(d) there has been open and transparent public consultation during the preparation of the following Regulations.

**PART I**

**PRELIMINARY**

**Title, application and commencement**

1. These Regulations may be cited as the Fishery Products (Official Controls Charges) (England) Regulations 2005, apply in relation to England only and come into force on 1st January 2006.

**Interpretation**

2.—(1) In these Regulations —

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

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(a) 1972 c.68.  
(b) S.I. 2003/2901.  
(c) OJ No. L31, 1.2.2002, p.1.  
(d) OJ No. L245, 29.9.2003, p.4.

“competent authority” means the authority designated under regulation 4 of the Food Hygiene (England) Regulations 2005(a);

“Directive 2004/41”, “Regulation 178/2002”, “Regulation 1642/2003”, “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(b);

“establishment” has the meaning given to it in paragraph 1(c) of Article 2 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” has the meaning that it bears by virtue of section 5(1) of the Food Safety Act 1990(c), except that it does not include the appropriate Treasurer referred to in section 5(1)(c) of that Act (which deals with the Inner Temple and Middle Temple);

“imported” means introduced into England 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 paragraph 1 of Article 2 of Regulation 882/2004;

“placing on the market” has the meaning given to it in paragraph 8 of Article 3 of Regulation 178/2002;

“port health authority” means —

- (a) in relation to the London port health district (within the meaning given to that phrase for the purposes of the Public Health (Control of Disease) Act 1984(d) by section 7(1) of that Act), the Common Council of the City of London; and
- (b) in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984, a port health authority for that district constituted by order under section 2(4) of that Act;

“processing” has the meaning given to it in paragraph 1(m) of Article 2 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 England; 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 that authority arise;

“relevant landed fishery products” means fishery products which —

- (a) were caught in their natural environment;
- (b) have not or had not been on land prior to being landed;
- (c) are or will be landed in England; and
- (d) are intended for placing on the market for human consumption,

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(a) S.I. 2005/2059.

(b) 1992 c..4.

(c) 1990 c.16; section 5 was amended by paragraphs 8 and 9 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28).

(d) 1984 c.22.

other than relevant fishery products being sold for the first time in England 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 52(1) of the Products of Animal Origin (Third Country Imports) (England) (No. 4) Regulations 2004(a); 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.

(2) Any reference in these Regulations to a food authority includes a reference to a port health authority and in the context of such a reference any reference to a food authority’s area includes a reference to a port health authority’s district.

### **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 and 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 his 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;
- (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.

### **Sterling equivalents of Euro**

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

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(a) S.I. 2004/3388.

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

(3) The Euro/Sterling conversion rate shall be —

- (a) for 2006, 1 Euro = £0.68335; 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.

#### **Account period**

5.—(1) For the purposes of these Regulations, the account period shall be one month or such longer period not exceeding twelve 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.

#### **Recovery of charges**

6. Where a duty to pay a charge under these Regulations is imposed on either of two persons the authority to which the charge is payable may recover it —

- (a) jointly from both of them; or
- (b) separately from either of them.

#### **Calculation, payment and repayment of charges**

7.—(1) Where the 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; and
- (b) give notice of the amount so calculated to any person from whom it may be collected.

(2) If the relevant food authority or the competent authority is satisfied that a calculation made under paragraph (1) is incorrect, it shall recalculate the charge and —

- (a) where the correct amount is more than the amount calculated under paragraph (1), it shall recover the higher amount in accordance with that paragraph;
- (b) where the correct amount is less than the amount calculated under that paragraph and that amount has not been recovered, it shall recover the lesser amount in accordance with that paragraph; and
- (c) where no charge is payable or the charge payable is less than the amount calculated under that paragraph, and that amount has been recovered, it shall repay the difference.

#### **Appeals**

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

(2) The appeal shall be heard by a magistrates' court and section 37(3), (5) and (6) of the Food Safety Act 1990 shall apply in relation to such an appeal as it applies in relation to an appeal under section 37(1)(c) of that Act.

(3) On any such appeal, the court may —

- (a) confirm the decision of the authority concerned;
- (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 the appeal the original amount of the charge shall remain payable, but if after the court's decision the amount of the charge needs to be recalculated, the new amount of the charge shall have effect from the date on which the original charge was made and the sum equal to that new amount shall be payable to the authority concerned.

(5) If the court 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.

#### **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 the 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.

## **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 England 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 he charges the purchaser 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 of 1 Euro per tonne for the first 50 tonnes of relevant 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 Euros, the general landings charge in respect of that consignment shall not exceed that amount.

(5) The vendor shall pay the general landings charge to the relevant food authority.

#### **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.

### **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, he 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 regulation 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 paragraph (a) or (b) of that regulation that reduction has been made; and
- (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 him to supply any such information.

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

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

(2) The charge payable under paragraph (1) shall be payable in addition to the charge payable under regulation 10(5) but shall not apply in relation to third country imports or relevant fishery products which are sold for the first time in England.

### **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 ship's own checks, are such that inspection staff requirements can be reduced.

#### **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.

(3) A return made under this regulation 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 paragraph (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 him to provide separate information of the kind required by paragraph (3) in respect of each landing included in it; and
- (b) he shall retain records which are sufficient to enable him to supply any such information.

#### **Charge in respect of factory vessels abroad**

**16.** In respect of the expenditure incurred by the competent 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, the owner or master of a factory vessel shall pay to that authority the actual costs of the official controls.

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

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

#### **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 —

- (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.

#### **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 paragraph (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 one 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 him to provide separate information of the kind required by paragraph (3) in respect of each batch of fishery products included in it; and
- (b) he shall retain records which are sufficient to enable him to supply any such information.

### **Charges in respect of other establishments**

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

## **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 England (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 Euros, 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 vendor shall pay the third country direct landings charge to the relevant food authority.

#### **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.

### **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.

(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 paragraph (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.

Signed by authority of the Secretary of State for Health

24th October 2005

*Caroline Flint*  
Parliamentary Under Secretary of State,  
Department of Health

## DEFINITIONS OF COMMUNITY LEGISLATION

“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(a);

“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 as last amended by Regulation 1642/2003;

“Regulation 1642/2003” means 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;

“Regulation 852/2004” means Regulation (EC) No. 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs(b) 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(c) 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(d) 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(e); 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 special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs(f).

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(a) OJ No. L157, 30.4.2004, p.33. The revised text of Directive 2004/41/EC is now set out in a Corrigendum (OJ No. L195, 2.6.2004, p.12).

(b) OJ No. L139, 30.4.2004, p.1. The revised text of Regulation (EC) No. 852/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.3).

(c) OJ No. L139, 30.4.2004, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.22).

(d) OJ No. L139, 30.4.2004, p.206. The revised text of Regulation (EC) No. 854/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.83).

(e) OJ No. L165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (OJ No. L191, 28.5.2004, p.1).

(f) OJ No. L271, 15.10.2005, p.17.

## EXPLANATORY NOTE

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

1. These Regulations apply in relation to England only. They implement in relation to England 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 (OJ No. L139, 30.4.2004, p.206; the revised text of Regulation (EC) No. 854/2004 is now set out in a Corrigendum, OJ No. L226, 25.6.2004, p.83). An amended and consolidated text of Council Directive 85/73/EC is annexed to Council Directive 96/43/EC at OJ No. L162, 1.7.96, p.1.

2. 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 (OJ No. L268, 24.9.91, p.15). In the light of the reforms mentioned in paragraph 1 above, Directive 2004/41/EC of the European Parliament and of the Council (OJ No. L157, 30.4.2004, p.33; the revised text of Directive 2004/41/EC is now set out in a Corrigendum, OJ No. L195, 2.6.2004, 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.

3. The reforms mentioned in paragraph 1 above will also lead to the revocation on 1st January 2005 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994) in so far as they apply in relation to England. Those Regulations implement in relation to Great Britain 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.

4. 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 rates to calculate the sterling equivalent of any sums which are specified in Euros 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 to pay charges under the Regulations is imposed on more than one person it may be enforced jointly or separately against such persons (*regulation 6*);
- (e) require authorities to which charges are payable under the Regulations to calculate the charges, recalculate if an error is made and give notice of amounts due to those liable to pay (*regulation 7*);
- (f) provide for appeals 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 England 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 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 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*);

- (j) 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 carrying fishery products and specify products in relation to which the charge does not apply (the term “factory vessel” is defined in regulation 2) (*regulations 13 and 14*);
- (k) specify the manner in which charges relating to fishery products landed from factory vessels 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*);
- (l) provide that owners or masters of factory vessels must pay the actual costs incurred by the competent authority in exercising certain official controls (the term “competent authority” is defined in regulation 2) (*regulation 16*);
- (m) 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*);
- (n) 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*);
- (o) provide that proprietors of establishments at which fishery products are only chilled, frozen, packaged or stored must 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*);
- (p) 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 England and inclusion of that amount in the sale price (the term “relevant fishery products” is defined in regulation 2) (*regulations 21 and 22*); and
- (q) 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*).

5. A full regulatory impact assessment has not been produced for this Instrument as it has no impact on business.

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