

SCHEDULE 4

Regulation 5

AMENDMENTS TO THE PRINCIPAL REGULATIONS

- 1.—(1) In paragraph (1) of regulation 2 of the principal Regulations (interpretation)—
- (a) after the definition of “the Act” there shall be inserted the following definitions—
 - ““approved import conditions” has the same meaning as in the Import Conditions Regulations;
 - “aquaculture products” has the same meaning as in the Food Safety (Fishery Products) Regulations 1992(1);”;
 - (b) in the definition of “the Council Directive”, after the words “bivalve molluscs” there shall be inserted the words “, as adapted for the purposes of the EEA Agreement(2)”;;
 - (c) after the definition of “establishment” there shall be inserted the following definitions—
 - ““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(3) as adjusted by the Protocol signed at Brussels on 17th March 1993(4);
 - “EEA State” means a State which is a Contracting Party to the EEA Agreement, but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein(5);”;
 - (d) for the definition of “healthmark” there shall be substituted the following definition—
 - ““healthmark” means a healthmark which (as the context requires) is in accordance with—
 - (a) Schedule 1;
 - (b) Schedule 1 to the Northern Ireland Regulations;
 - (c) any law of another EEA State, the Isle of Man or the Channel Islands which is intended to give effect to the results to be achieved by Chapter X, in so far as it applies to those islands; or
 - (d) any approved import conditions;”;
 - (e) after the definition of “healthmark” there shall be inserted the following definitions—
 - ““the Import Conditions Regulations” means the Food Safety (Live Bivalve Molluscs and Other Shellfish) (Import Conditions and Miscellaneous Amendments) Regulations 1994;
 - “imported” means imported into Great Britain, but only if the product in question was not imported from another part of the British Islands(6);”;
 - (f) for the definition of “movement document” there shall be substituted the following definition—
 - ““movement document” means—
 - (a) in relation to any batch transported from a production area to—
 - (i) an approved relaying area in Great Britain, or

(1) See sections 1(5) and 10(2)(b) of the Fishery Limits Act 1976 (c. 86).

(2) S.I.1992/3163.

(3) See paragraph 25 of the basic texts in Annex 1 to the EEA Agreement.

(4) OJNo. L 1, 3.1.94, p. 3.

(5) OJ No. L 1, 3.1.94, p. 572.

(6) See article 1(2) of the Protocol Adjusting the Agreement on the European Economic Area.

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- (ii) a dispatch or purification centre approved in accordance with these Regulations,
a movement document which meets the requirements of paragraph 6(4) and (5) of Schedule 2;
 - (b) in relation to any batch transported from a production area to—
 - (i) an approved relaying area in Northern Ireland, or
 - (ii) a dispatch or purification centre approved in accordance with the Northern Ireland Regulations,
a movement document which meets the requirements of paragraph 6(4) and (5) of Schedule 2 to the Northern Ireland Regulations;
 - (c) in relation to any batch transported from a production area to—
 - (i) an approved relaying area in the Channel Islands or the Isle of Man, or
 - (ii) a dispatch or purification centre approved in accordance with any law passed by the legislature of any of the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved in relation to the approval of dispatch and purification centres by the Council Directive, in so far as it applies to those islands,
a movement document which meets the requirements of any law passed by the legislature of any of the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by paragraph 6 of Chapter II, in so far as it applies to those islands;”;
 - (g) after the definition of “movement document” there shall be inserted the following definition—
 - ““the Northern Ireland Regulations” means the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations (Northern Ireland) 1993(7);”;
 - (h) for the definition of “permanent transport authorisation” there shall be substituted the following definition—
 - ““permanent transport authorisation” means a written authorisation which has been—
 - (a) issued by a food authority and which meets the requirements of paragraph 6(8) of Schedule 2;
 - (b) issued by a district council in Northern Ireland and which meets the requirements of paragraph 6(8) of Schedule 2 to the Northern Ireland Regulations; or
 - (c) granted by a competent authority in the Channel Islands or the Isle of Man and which meets the requirements of any law passed by the legislature of any of the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved by the final unnumbered paragraph of paragraph 6 of Chapter II, in so far as it applies to those islands;”;and
 - (i) after the definition of “purification centre” there shall be inserted the following definition—
 - ““registered market” means a market registered pursuant to an application made under regulation 13 of the Food Safety (Fishery Products) Regulations 1992;”.
- (2) In paragraph (3) of regulation 2 of the principal Regulations—

(7) “British Islands” means the United Kingdom, the Channel Islands and the Isle of Man; see section 5 of and Schedule 1 to the Interpretation Act 1978 (c. 30).

- (a) in sub-paragraph (b), after the words “regulation”, in both places where it occurs, there shall be inserted the words “or Schedule”;
 - (b) after sub-paragraph (b) there shall be inserted the following sub-paragraphs—
 - “(c) a reference in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number;
 - (d) a reference to a numbered Chapter is a reference to the Chapter in the Annex to the Council Directive bearing that number.”.
- (3) In paragraph (4)(b) of regulation 2 of the principal Regulations, after the words “authority in” there shall be inserted the words “paragraph 5 of Section II,”.
2. In paragraph (2) of regulation 3 of the principal Regulations (designation of certain areas), for sub-paragraph (a) there shall be substituted the following sub-paragraph—
- “(a) fulfils the conditions required for designation as a Class A or B area specified in sub-paragraphs (a) and (b) of paragraph (1); and”.
- 3.—(1) In regulation 7 of the principal Regulations (approval of dispatch centres and purification centres)—
- (a) in paragraph (1), after the words “area the dispatch centre” there shall be inserted the words “or purification centre”; and
 - (b) in paragraph 2(b) for the word “Parts” there shall be substituted the word “Sections”.
- (2) For paragraph (4) of regulation 7 of the principal Regulations there shall be substituted the following paragraphs—
- “(4) An approval in respect of a dispatch centre may only be granted if the food authority is satisfied that it meets such of the conditions set out in Sections I, II and IV of the Schedule to the Derogations Regulations as apply to it, save in so far as—
 - (a) there is in force in respect of that centre a derogation; and
 - (b) the terms on which that derogation was granted are complied with.
 - (4A) An approval in respect of a purification centre may only be granted if the food authority is satisfied that it meets such of the conditions specified in Sections I, II and III of the Schedule to the Derogations Regulations as apply to it, save in so far as—
 - (a) there is in force in respect of that centre any derogation; and
 - (b) the terms on which that derogation was granted are complied with,and that it meets any additional conditions of which the food authority has been notified by the Ministers pursuant to paragraph (5).”.
4. In paragraph (3) of regulation 9 of the principal Regulations (supplementary provisions about approvals), after the words “of any approval” there shall be inserted the words “granted to him, and the food authority may vary any such terms or limitations”.
- 5.—(1) In paragraph (1) of regulation 10 of the principal Regulations (restrictions on the operation of dispatch and purification centres) for the words from “approval, of” to “any applicable derogation” there shall be substituted the words “approval and the applicable provisions of the Schedule to the Derogations Regulations (allowing for any applicable derogations)”.
- (2) For paragraph (2) of regulation 10 of the principal Regulations, there shall be substituted the following paragraph—
- “(2) The proprietor of each dispatch centre or purification centre shall ensure that—

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- (a) the requirements of the approval and the applicable provisions of the Schedule to the Derogations Regulations (allowing for any applicable derogations) are complied with;
- (b) representative numbers of samples for laboratory examination are regularly taken and analysed in laboratories which meet the requirements of the Schedule to the Derogations Regulations;
- (c) the results of the laboratory examinations referred to in sub-paragraph (b) are recorded in an historical record which, in relation to each area from which the live bivalve molluscs or other shellfish come, gives details of the health quality of the live bivalve molluscs and other shellfish from that area both before and after handling at the centre.”.

6. For regulation 11 of the principal Regulations (restrictions on the marketing of molluscs and shellfish) there shall be substituted the following regulation—

“Placing live bivalve molluscs and other shellfish on the market

11.—(1) Subject to paragraphs (2) to (5), no person shall place on the market for immediate human consumption any live bivalve molluscs or other shellfish, unless—

- (a) they originate from a bivalve production area which—
 - (i) has been designated as a Class A area, a Class B area or a Class C area in accordance with regulation 3(1), and any condition or limitation specified in Schedule 3 in relation to that class of area has been complied with,
 - (ii) has been designated as a Class A area, a Class B area or a Class C area in accordance with regulation 2(1) of the Northern Ireland Regulations, and any condition or limitation specified in Schedule 3 to those Regulations in relation to that class of area has been complied with,
 - (iii) has been identified, pursuant to any law passed by the legislature of any of the Channel Islands or of the Isle of Man which is intended to give effect to the results to be achieved by Chapter I, in so far as it applies to those islands, as an area from which bivalve molluscs may be collected, and any condition or limitation derived from that Chapter which relates to that production area has been complied with, or
 - (iv) if they are imported for relaying, was of at least the same standard as an area designated as a Class B area or a Class C area in accordance with regulation 3(1)(b) or (c), and any condition or limitation specified in Schedule 3 in relation to the class of area which would be applicable for that production area has been complied with;
- (b) they have been harvested, kept and transported to any approved dispatch centre, approved purification centre or approved relaying area to which they are thereafter transferred, in accordance with the requirements of—
 - (i) Schedule 2,
 - (ii) Schedule 2 to the Northern Ireland Regulations, or
 - (iii) any law passed by the legislature of any of the Channel Islands or of the Isle of Man which is intended to give effect to the results to be achieved by Chapter II, in so far as it applies to those islands,and they are accompanied by a valid movement document or a valid permanent transport authorisation;
- (c) they have, where necessary, been relaid in accordance with—

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- (i) Schedule 4,
 - (ii) Schedule 4 to the Northern Ireland Regulations, or
 - (iii) any law passed by the legislature of any of the Channel Islands or of the Isle of Man which is intended to give effect to the results to be achieved by Chapter III, in so far as it applies to those islands;
- (d) they have, where appropriate, been purified or subject to intensive purification at a purification centre which has been approved in accordance with—
- (i) these Regulations,
 - (ii) the Northern Ireland Regulations, or
 - (iii) any law passed by the legislature of any of the Channel Islands or the Isle of Man which is intended to give effect to the results to be achieved in relation to the approval of purification centres by the Council Directive, in so far as it applies to those islands;
- (e) they are as specified in Schedule 5;
- (f) any wrapping is in accordance with Schedule 6;
- (g) they have been stored and transported under satisfactory conditions of hygiene and in particular in accordance with the requirements specified in Schedule 7;
- (h) they comprise or form part of a consignment which bears a healthmark—
- (i) unless head (ii), (iii) or (iv) applies, which is in accordance with Schedule 1,
 - (ii) which, if they comprise or form part of a consignment which has been given a healthmark in accordance with Schedule 1 to the Northern Ireland Regulations, is in accordance with that Schedule,
 - (iii) which, if they comprise or form part of a consignment which has been given a healthmark in accordance with any law of another EEA State, the Isle of Man or the Channel Islands, and that law is intended to give effect to the results to be achieved by Chapter X, in so far as it applies to those territories, is in accordance with that law,
 - (iv) which, if they comprise or form part of a consignment from a country in respect of which the European Commission has adopted approved import conditions, is in accordance with those approved import conditions,
- but a healthmark is not required in relation to live bivalve molluscs or other shellfish which originate from a third country in respect of which the European Commission has not adopted approved import conditions, unless those live bivalve molluscs or other shellfish have been repackaged in accordance with paragraph 3 of Schedule 6;
- (i) they have been handled hygienically; and
 - (j) if they are imported live bivalve molluscs or other shellfish, prior to importation such of the requirements specified in regulations 3 and 4 of the Import Conditions Regulations as are applicable to his case are satisfied in relation to those live bivalve molluscs or other shellfish which he places on the market.
- (2) Sub-paragraph (a) of paragraph (1) shall not apply to—
- (a) pectinidae which are not aquaculture products; or
 - (b) any imported live bivalve molluscs, unless they were taken from sea waters or brackish waters within British fishery limits⁽⁸⁾.

⁽⁸⁾ See sections 1(5) and 10(2)(b) of the Fishery Limits Act 1976 (c. 86).

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(3) Sub-paragraphs (b) and (c) of paragraph (1) shall not apply to imported live bivalve molluscs or other shellfish, unless their country of dispatch is part of the British Islands.

(4) Sub-paragraphs (a), (c) and (d) of paragraph (1) shall not apply to other shellfish, and sub-paragraph (b) of paragraph (1) shall only apply to other shellfish in so far as it relates to harvesting and transportation to an approved dispatch centre.

(5) Heads (ii) to (iv) of sub-paragraph (h) of paragraph (1) shall not apply in circumstances where, in Great Britain, a person repackages live bivalve molluscs or other shellfish from a country or territory other than Great Britain in accordance with paragraph 3 of Schedule 6.”.

7. After regulation 11 there shall be inserted the following regulation—

“Splitting consignments of live bivalve molluscs or other shellfish

11A.—(1) A person other than the final consumer who splits the contents of a consignment of live bivalve molluscs or other shellfish which are not wrapped in individual consumer-sized parcels shall keep—

- (a) any healthmark which was attached to the consignment; or
- (b) a copy of any certificate required in accordance with regulation 4(2)(a) of the Import Conditions Regulations which accompanied that consignment,

for a period of not less than 60 days from the date of the splitting of the contents of that consignment.

(2) A person who repackages a consignment of live bivalve molluscs or other shellfish in accordance with paragraph 3 of Schedule 6 shall keep the original healthmark (if one was required) which was attached to the consignment for a period of not less than 60 days from the date of the splitting of the contents of that consignment.”.

8.—(1) In paragraph (1) of regulation 12 of the principal Regulations (exemptions for marketing molluscs and other shellfish within the UK)—

- (a) for the words “a retailer or final consumer” there shall be substituted the words “retailers or final consumers”; and
- (b) for the words “regulation 11(1)(f) and (h) and (2)(a)” there shall be substituted the words “regulation 11(1)(b), (f) and (h)”.

(2) In paragraph (3) of regulation 12 of the principal Regulations, for the words from “For the purpose” to “in that table” there shall be substituted the words “For the purposes of paragraph (1), a “small quantity” means a total amount not exceeding 25 tonnes in a calendar year, and although the total amount may be comprised of one or more species, in that total amount the amount of any of the species listed in column (a) of the table in this paragraph shall not exceed the maximum amount for that species mentioned in column (b) of that table”.

9.—(1) In paragraph (1) of regulation 14 of the principal Regulations (monitoring by Ministers and food authorities), before the words “The Ministers” there shall be inserted the words “Subject to paragraph (2)(b),”.

(2) For paragraph (2) of regulation 14 of the principal Regulations there shall be substituted the following paragraph—

“(2) Each food authority shall perform—

- (a) the functions specified in paragraph 2 of Schedule 9; and
- (b) any function of the Ministers specified in paragraph 1 of Schedule 9 which the Ministers require the food authority to undertake on their behalf.”.

10. Regulation 15 of the principal Regulations (imports) shall be omitted.

11. In paragraph (2) of regulation 18 of the principal Regulations (offences and penalties), for the words “10 and 11” there shall be substituted the words “10, 11 and 11A”.

12.—(1) In paragraph (1) of regulation 19 of the principal Regulations (applications of provisions of the Act), the words “section 32 (powers of entry);” shall be omitted.

(2) After paragraph (2) of regulation 19 of the principal Regulations, there shall be inserted the following paragraph—

“(2A) Section 32 of the Act (powers of entry) shall apply for the purposes of these Regulations as though—

- (a) any reference to premises included a reference to a vessel used for transporting live bivalve molluscs or other shellfish or a dispatch or purification centre (in so far as it does not already do so⁽⁹⁾); and
- (b) any reference to the occupier included a reference to the person in charge of the vessel used for transporting live bivalve molluscs or other shellfish or the dispatch or purification centre (in so far as it does not already do so).”.

(3) After paragraph (3) of regulation 19 of the principal Regulations, there shall be inserted the following paragraph—

“(4) Section 58(1) of the Act (territorial waters and the continental shelf) shall apply for the purposes of these Regulations as it applies for the purposes of the Act.”.

13.—(1) In paragraph 1 of Schedule 1 to the principal Regulations (marking of consignments), before the words “All parcels in a consignment”, there shall be inserted the words “Without prejudice to the requirements of the Food Labelling Regulations 1984⁽¹⁰⁾ and subject to paragraph 4,”.

(2) After paragraph 3 of Schedule 1 to the principal Regulations there shall be inserted the following paragraph—

“4. Where a person repackages any live bivalve molluscs or other shellfish in accordance with paragraph 3 of Schedule 6, the healthmark provided on the new wrapping shall be in the form set out in paragraph 1, except that it shall also contain—

- (a) if the live bivalve molluscs or other shellfish originate—
 - (i) in the European Economic Area or in a third country in respect of which the European Commission has adopted approved import conditions, the approval number of the original dispatch centre, or
 - (ii) in a third country in respect of which the European Commission has not adopted approved import conditions, the original dispatch details; and
- (b) if the consignment was unwrapped—
 - (i) at a registered market, the registration number of the market where the consignment was unwrapped, or
 - (ii) elsewhere than at a registered market, the full name and address of the person repackaging the consignment.”.

14. In Part 2 of Schedule 3 to the principal Regulations (conditions for production areas)—

- (a) before the words “used for relaying” there shall be inserted the word “be”; and

⁽⁹⁾ See the definition of “premises” in section 1(3) of the Food Safety Act 1990, and the transitional provision contained in paragraph 1 of Schedule 4 to the 1990 Act. No orders have yet been made under section 1(3) of the 1990 Act.

⁽¹⁰⁾ S.I. 1984/1305; amended by S.I. 1985/67 and 71, 1987/1986, 1988/2212, 1989/768, and 1990/607, 2468, 2488 and 2489.

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- (b) for the words “specified in Schedule” there shall be substituted the words “specified in Schedule 5”.
- 15.** In paragraph 3 of Schedule 6 to the principal Regulations (wrapping)—
- (a) for sub-paragraph (c) there shall be substituted the following sub-paragraph—
 - “(c) a healthmark is provided on the new packaging which is in accordance with Schedule 1.”; and
 - (b) sub-paragraph (d) shall be omitted.
- 16.** In Schedule 9 to the principal Regulations (public health control and monitoring of production)—
- (a) in paragraph 1(b), for the word “chemical” there shall be substituted the words “chemical or microbiological”;
 - (b) in paragraph 2, the word “in” where it first occurs shall be omitted; and
 - (c) in paragraph 5(1)(e), for the words “Part 3 of Schedule 1” there shall be substituted the words “Section III of the Schedule to the Derogations Regulations”.