
STATUTORY INSTRUMENTS

1994 No. 2783

FOOD
FOOD SAFETY

**The Food Safety (Fishery Products) (Import Conditions
and Miscellaneous Amendments) Regulations 1994**

Made - - - - *31st October 1994*
Laid before Parliament *31st October 1994*
Coming into force - - *21st November 1994*

The Minister of Agriculture, Fisheries and Food, the Secretaries of State respectively concerned with health in England and food and health in Wales, acting jointly in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4), 16(1), 17(1), 18(1)(c), 26(3), 48(1) and 49(2) of, and paragraphs 2, 5(1) and (2), 6(1) and 7(1) of Schedule 1 to, the Food Safety Act 1990⁽¹⁾, and the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, being Ministers designated⁽²⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽³⁾ in relation to the common agricultural policy of the European Community, in the exercise of the powers conferred on them by the said section 2(2), and in each case in exercise of all other powers respectively enabling them in that behalf, after consultation (so far as is required by section 48(4) of the Food Safety Act 1990) with such organisations as appear to them to be representative of interests likely to be substantially affected, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Food Safety (Fishery Products) (Import Conditions and Miscellaneous Amendments) Regulations 1994 and shall come into force on 21st November 1994.

Interpretation

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

“approved import conditions” means the conditions for the importation of fishery products which are laid down in any Commission Decision listed in Schedule 1;

(1) 1990 c. 16; section 4(1) of the Act contains a definition of “the Ministers” which is relevant to the powers being exercised in the making of these Regulations.
(2) S.I. 1972/1811.
(3) 1972 c. 68.

- “aquaculture products” has the same meaning as in the principal Regulations;
- “bivalve molluscs” has the same meaning as in the principal Regulations;
- “consignment”, except in the expression “private consignment”, has the same meaning as in the principal Regulations;
- “the Council and Commission Decisions” means the Council and Commission Decisions listed in Schedule 2;
- “the Council Directive” means Council Directive [91/493/EEC\(4\)](#) of 22nd July 1991 laying down the health conditions for the production and placing on the market of fishery products, as adapted for the purposes of the EEA Agreement(5);
- “the Derogations Regulations” means the Food Safety (Fishery Products) (Derogations) Regulations 1992(6);
- “the Docks and Carriers Regulations” means the Food Hygiene (Docks, Carriers etc.) Regulations 1960(7);
- “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(8) as adjusted by the Protocol signed at Brussels on 17th March 1993(9);
- “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(10);
- “factory vessel” has the same meaning as in the principal Regulations;
- “fishery products” has the same meaning as in the principal Regulations;
- “the Fishing Vessels Directive” means Council Directive [92/48/EEC\(11\)](#) of 16th June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with article 3(1)(a)(i) of the Council Directive;
- “import” means import into Great Britain, but only if the product in question is not imported from another part of the British Islands(12);
- “the Import and Export Regulations” means the Products of Animal Origin (Import and Export) Regulations 1992(13);
- “the Live Bivalve Molluscs Directive” means Council Directive [91/492/EEC\(14\)](#) of 15th July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs, as adapted for the purposes of the EEA Agreement(15);
- “local authority” has the same meaning as in the Import and Export Regulations;
- “other shellfish” has the same meaning as in the principal Regulations;
- “the principal Regulations” means the Food Safety (Fishery Products) Regulations 1992(16);
- “private consignment” means a quantity of fishery products which are—
- (a) imported as trade samples; or

(4) .OJ No. L 268, 24.9.91, p.15

(5) See paragraph 24 of the basic texts in Annex I to the EEA Agreement.

(6) S.I. 1992/1507.

(7) S.I. 1960/1602; the relevant amending instruments are S.I. 1990/2486 and 1992/3163.

(8) OJ No. L 1, 3.1.94, p.3.

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

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

(11) OJ No. L 187, 7.7.92, p.41.

(12) “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).

(13) S.I. 1992/3298.

(14) OJ No. L 268, 24.9.91, p.1.

(15) See paragraph 25 of the basic texts in Annex I to the EEA Agreement.

(16) S.I. 1992/3163.

- (b) not being imported by way of trade, and which—
 - (i) form part of a traveller’s personal luggage, or
 - (ii) have been sent to a person, other than a body of persons corporate or unincorporate, in Great Britain;

“processed” has the same meaning as in the principal Regulations;

“the Safeguards against Cholera Regulations” means the Imported Food and Feedingstuffs (Safeguards against Cholera) Regulations 1991(17);

“third country” means any country or territory which is not part of the European Economic Area including, until the EEA Agreement comes into force in relation to Liechtenstein, the State of Liechtenstein.

- (2) In these Regulations, unless the context otherwise requires, a reference—
 - (a) to a numbered Chapter is to the Chapter in the Annex to the Council Directive bearing that number;
 - (b) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
 - (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
 - (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

General restriction on importing fishery products

3.—(1) Subject to paragraphs (2) and (3), no person shall import any fishery products which are for human consumption, unless—

- (a) except where paragraph (b) or (c) applies, they are products in respect of which all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive (allowing for any derogations which have been granted from the conditions set out in those Directives) and the Council and Commission Decisions are satisfied;
- (b) if they originate in a third country (including products taken from the sea and then landed in Great Britain by the vessel of a third country)(18), then unless paragraph (c) applies, they are products in respect of which the requirements specified in Schedule 3 are satisfied;
- (c) if they are products in respect of which two or more countries have been concerned with their production—
 - (i) where they have undergone any process or operation in an EEA State or on board a vessel of an EEA State, all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive (allowing for any derogations which have been granted from the conditions set out in those Directives) and the Council and Commission Decisions which relate to that process or operation are satisfied, and
 - (ii) where they have undergone any process or operation in a third country or on board a vessel of a third country, the requirements specified in Schedule 3 which relate to that process or operation are satisfied; and

(17) S.I. 1991/2486, amended by S.I. 1991/2934 and S.I. 1992/2364.

(18) See Council Regulation (EEC) No. 802/68 on the Common Definition of the Concept of the Origin of Goods, and protocol 4 to the EEA Agreement as amended by the Decision of the EEA Joint Committee No. 6/94 amending protocol 4 to the EEA Agreement, on rules of origin (OJ No. L 95, 14.4.94, p.22).

(d) any additional conditions imposed under regulation 4 are satisfied, in relation to those fishery products which he imports.

(2) Paragraph (1) shall not apply to a person importing a private consignment—

- (a) from a country or territory within the European Community, unless that consignment is a consignment of trade samples which weighs more than 10 kilograms; or
- (b) from any other country or territory, if that consignment weighs 1 kilogram or less.

(3) Paragraphs 1 to 6 of Schedule 3 shall not apply to aquaculture products.

Additional conditions relating to certain third country imports

4.—(1) Subject to paragraphs (3) and (4), no person shall import any fishery products which are for human consumption—

- (a) from a third country;
- (b) from another country or territory within the European Community if those fishery products do not originate from within the European Economic Area, unless those products were in free circulation in that country or territory within the European Community;
- (c) from an EEA State which is not also a member State, unless those fishery products originate from within the European Economic Area,

unless the conditions specified in paragraph (2) are satisfied in relation to those fishery products which he imports.

(2) The conditions referred to in paragraph (1) are that—

- (a) except in the circumstances set out in sub-paragraph (b), the fishery products comprise or are part of a consignment which is accompanied by a duly completed health certificate which—
 - (i) comprises a single sheet,
 - (ii) is drawn up in English and, where appropriate, in an official language of the country or territory for which those fishery products are destined,
 - (iii) contains the information mentioned in the specimen health certificate set out in the Annex to Commission Decision [93/185/EEC](#) of 15th March 1993⁽¹⁹⁾ laying down certain transitional measures concerning the certification of fishery products from third countries in order to facilitate the switchover to the arrangements laid down in the Council Directive, and
 - (iv) contains the health attestation mentioned in that specimen health certificate, duly signed and dated by an official inspector duly appointed by the competent authority of the state of origin of those fishery products;
- (b) a person importing fishery products in circumstances where—
 - (i) those fishery products originate in a third country in respect of which the European Commission has adopted approved import conditions, and
 - (ii) those approved import conditions relate to those fishery products,shall import those fishery products in accordance with those approved import conditions.

(3) Fishery products which—

- (a) originate in a third country;
- (b) were caught in their natural environment; and

⁽¹⁹⁾ OJ No. L 79, 1.4.93, p.80.

(c) have not or had not been on land prior to their importation into the European Community, need not be accompanied by any health certificate which would otherwise be required under paragraph (2).

(4) Paragraph (1) shall not apply to a person importing a private consignment, if that consignment weighs 1 kilogram or less.

Amendment of the Food Hygiene (Scotland) Regulations 1959

5.—(1) In paragraph (2) of regulation 13 of the Food Hygiene (Scotland) Regulations 1959⁽²⁰⁾ (treatment of certain foods), after sub-paragraph (f) there shall be inserted the following sub-paragraph—

“(g) cooked and chilled crustacean or molluscan shellfish products to which the Food Safety (Fishery Products) Regulations 1992 apply.”.

(2) After regulation 31 of the Food Hygiene (Scotland) Regulations 1959 (exemptions), there shall be inserted the following regulation—

“Fishery products exceptions

31A. Regulations 6, 9, 11, 12, 17, 18, 20 to 25, 27 to 29 and 30(1), (3) and (4) shall not apply to or to a person at—

- (a) an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations; or
- (b) a market registered under regulation 13 of those Regulations.”.

Amendment of the Docks and Carriers Regulations

6.—(1) In regulation 4 of the Docks and Carriers Regulations (premises and places to which the Regulations apply), for the words “Subject to regulation 4A,” there shall be substituted the words “Subject to regulations 4A and 4B,”.

(2) After the regulation 4A of the Docks and Carriers Regulations inserted by regulation 27 of the Fresh Meat (Hygiene and Inspection) Regulations 1992⁽²¹⁾ (fresh meat exception), the following regulation shall be substituted for the regulation 4A of the Docks and Carriers Regulations inserted by regulation 21(2) of the principal Regulations (exceptions for premises and places where fishery products are handled)—

“Fishery products exceptions

4B.—(1) Regulations 6, 9 and 11 to 23 of these Regulations shall not apply to or to a person at an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations.

(2) Regulations 6, 9 and 12 to 23 of these Regulations shall not apply to or to a person at a market registered under regulation 13 of the Food Safety (Fishery Products) Regulations 1992.”.

⁽²⁰⁾ S.I. 1959/413; amended by S.I. 1959/1153, 1961/622, 1966/976 and 1978/173.

⁽²¹⁾ S.I. 1992/2037.

Amendment of the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966

7. For regulation 2A of the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966(22) (places where fishery products are handled) there shall be substituted the following regulation—

“Fishery products exceptions

2A. These Regulations shall not apply to or to a person at—

- (a) an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations; or
- (b) a market registered under regulation 13 of those Regulations.”.

Amendment of the Food Hygiene (General) Regulations 1970

8.—(1) For regulation 3A of the Food Hygiene (General) Regulations 1970(23) (exception for premises where fishery products are handled) there shall be substituted the following regulation—

“Fishery products exceptions

3A.—(1) Regulations 7, 8, 10 to 12 and 14 to 26 shall not apply to or to a person at an establishment or factory vessel within the meaning of the Food Safety (Fishery Products) Regulations 1992 which has been approved under regulation 9 of those Regulations.

(2) Regulations 7, 8, 10, 12 and 14 to 26 shall not apply to or to a person at a market registered under regulation 13 of the Food Safety (Fishery Products) Regulations 1992.”.

(2) In sub-paragraph (bb) of paragraph (2) of regulation 27 of the Food Hygiene (General) Regulations 1970(24), after the words “shellfish products” there shall be inserted the words “to which the Food Safety (Fishery Products) Regulations 1992 apply”.

Amendment of the Safeguards against Cholera Regulations

9. The amendments to the Safeguards against Cholera Regulations set out in Schedule 4 shall have effect.

Amendment of the Derogations Regulations

10. The amendments to the Derogations Regulations set out in Schedule 5 shall have effect.

Amendment of the Imported Food (Bivalve Molluscs and Marine Gastropods from Japan) Regulations 1992

11. In paragraph (2) of regulation 1 of the Imported Food (Bivalve Molluscs and Marine Gastropods from Japan) Regulations 1992(25) (interpretation), for the definition of “relevant bivalve mollusc or marine gastropod” there shall be substituted the following definition—

““relevant bivalve mollusc or marine gastropod” means any bivalve mollusc or marine gastropod originating in Japan which is not a frozen or processed bivalve mollusc of the family Pectinidae;”.

(22) S.I. 1966/791; the relevant amending instrument is S.I. 1992/3163.

(23) S.I. 1970/1172; the relevant amending instrument is S.I. 1992/3163.

(24) The relevant amending instrument is S.I. 1992/3163.

(25) S.I. 1992/1601.

Amendment of the principal Regulations

12. The amendments to the principal Regulations set out in Schedule 6 shall have effect.

Amendment of the Food Safety (Fishery Products on Fishing Vessels) Regulations 1992

13. After paragraph (2) of regulation 7 of the Food Safety (Fishery Products on Fishing Vessels) Regulations 1992(26) there shall be inserted the following paragraph—

“(3) Section 32 of the Food Safety Act 1990 (powers of entry) shall apply for the purposes of these Regulations as though—

- (a) any reference to premises included a reference to a fishing vessel (in so far as it does not already do so(27)); and
- (b) any reference to the occupier included a reference to the master or other person in charge of the fishing vessel (in so far as it does not already do so).”.

Amendment of the Import and Export Regulations

14. The amendments to the Import and Export Regulations set out in Schedule 7 shall have effect.

Enforcement and penalties

15. For the purposes of the Import and Export Regulations—

- (a) the conditions set out in regulations 3 and 4 shall be treated as health conditions (whether or not they are health conditions, as defined in the Import and Export Regulations(28)); and
- (b) those conditions shall be enforced as health conditions—
 - (i) by a local authority or the Minister (or by an authorised officer of the local authority or the Minister), whichever has the responsibility under the Import and Export Regulations for enforcing health conditions in the particular circumstances of the case,
 - (ii) in accordance with the procedures set out in the Import and Export Regulations, and
 - (iii) subject to the penalties and other sanctions set out in the Import and Export Regulations.

Revocations

16. The following provisions are hereby revoked—

- (a) regulation 2(2)(a), (7) to (10) and (12) to (14) of the Imported Food and Feedingstuffs (Safeguards against Cholera) (Amendment) Regulations 1992(29);
- (b) regulations 21, 22, 23(1) and 24 of the principal Regulations.

(26) [S.I. 1992/3165](#).

(27) 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.

(28) See regulation 1(2) of those Regulations.

(29) [S.I. 1992/2364](#).

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In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 31st October 1994.

William Waldegrave
Minister of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health

Department of Health
24th October 1994

Cumberlege
Parliamentary Under Secretary of State

26th October 1994

John Redwood
Secretary of State for Wales

Scottish Office
31st October 1994

Sir Hector Monro
Parliamentary Under Secretary of State

SCHEDULE 1

Regulations 2(1) and 4(2)(b)

APPROVED IMPORT CONDITIONS

1. Commission Decision [93/436/EEC](#) laying down special import conditions governing imports of fishery products originating in Chile(30), as amended by Commission Decision [93/620/EC](#)(31) and Commission Decision [94/188/EC](#)(32).
2. Commission Decision [93/437/EEC](#) laying down special import conditions governing imports of fishery products originating in Argentina(33), as amended by Commission Decision [93/525/EEC](#)(34) and Commission Decision [94/341/EC](#)(35).
3. Commission Decision [93/494/EEC](#) laying down special conditions governing imports of fishery products originating in the Faroe Islands(36).
4. Commission Decision [93/495/EEC](#) laying down special conditions governing imports of fishery products originating in Canada(37), as amended by Commission Decision [93/606/EC](#)(38) and Commission Decision [94/287/EC](#)(39).
5. Commission Decision [94/198/EC](#) laying down special conditions governing the import of fishery and aquaculture products originating in Brazil(40).
6. Commission Decision [94/200/EC](#) laying down special conditions governing the import of fishery and aquaculture products originating in Ecuador(41).
7. Commission Decision [94/205/EC](#) laying down special conditions for the import of frozen or processed scallops and other pectinidae originating in Japan(42).
8. Commission Decision [94/269/EC](#) laying down special conditions governing imports of fishery and aquaculture products originating in Colombia(43), as amended by Commission Decision [94/469/EC](#)(44).
9. Commission Decision [94/323/EC](#) laying down special conditions governing imports of fishery products originating in Singapore(45).
10. Commission Decision [94/324/EC](#) laying down special conditions governing imports of fishery and aquaculture products originating in Indonesia(46).
11. Commission Decision [94/325/EC](#) laying down special conditions governing imports of fishery and aquaculture products originating in Thailand(47).
12. Commission Decision [94/448/EC](#) laying down special conditions governing imports of fishery and aquaculture products originating in New Zealand(48).

(30) OJ No. L 202, 12.8.93, p.31.

(31) OJ No. L 297, 2.12.93, p.27.

(32) OJ No. L 89, 6.4.94, p.21.

(33) OJ No. L 202, 12.8.93, p.42.

(34) OJ No. L 252, 9.10.93, p.30.

(35) OJ No. L 151, 17.6.94, p.41.

(36) OJ No. L 232, 15.9.93, p.37.

(37) OJ No. L 232, 15.9.93, p.43.

(38) OJ No. L 289, 24.11.93, p.26.

(39) OJ No. L 122, 17.5.94, p.38.

(40) OJ No. L 93, 12.4.94, p.26.

(41) OJ No. L 93, 12.4.94, p.34.

(42) OJ No. L 99, 19.4.94, p.38.

(43) OJ No. L 115, 6.5.94, p.38.

(44) OJ No. L 194, 29.7.94, p.85.

(45) OJ No. L 145, 10.6.94, p.19.

(46) OJ No. L 145, 10.6.94, p.23.

(47) OJ No. L 145, 10.6.94, p.30.

(48) OJ No. L 184, 20.7.94, p.16.

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SCHEDULE 2

Regulations 2(1) and 3(1)(a) and (c)(i)

THE COUNCIL AND COMMISSION DECISIONS

1. Commission Decision [93/25/EEC](#) approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods(**49**).
2. Commission Decision [93/51/EEC](#) on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish(**50**).
3. Commission Decision [93/140/EEC](#) laying down the detailed rules relating to the visual inspection for the purpose of detecting parasites in fishery products(**51**).
4. Commission Decision [93/351/EEC](#) determining analysis methods, sampling plans and maximum limits for mercury in fishery products(**52**).
5. Council Decision [93/383/EEC](#) on reference laboratories for the monitoring of marine biotoxins(**53**).

SCHEDULE 3

Regulation 3(1)(b), (1)(c)(ii) and (3)

SPECIFIED HEALTH CONDITIONS (BASED ON ARTICLES 3 AND 10 OF THE COUNCIL DIRECTIVE)

- 1.—(1) Fishery products caught in their natural environment shall have been caught and, where appropriate, handled for bleeding, heading, gutting and the removal of fins, and chilled or frozen on board a fishing vessel in accordance with hygiene conditions which are at least as stringent as those contained in the Annexes to the Fishing Vessels Directive.
(2) For the purposes of sub-paragraph (1), Annex II of the Fishing Vessels Directive shall apply as if point 9 were omitted.
2. Where fishery products have at any time been handled on board a factory vessel—
 - (a) that factory vessel and that handling of those fishery products shall have been in accordance with health conditions which are at least as stringent as those contained in Chapter I;
 - (b) those fishery products shall have been subject on board that factory vessel to a system of visual inspection which is at least as stringent as that contained in Commission Decision [93/140/EEC](#) laying down the detailed rules relating to the visual inspection for the purpose of detecting parasites in fishery products.
3. Where, prior to processing, the fishery products were live bivalve molluscs or other shellfish, those bivalve molluscs or other shellfish shall, prior to that processing, have been produced in accordance with health conditions in relation to the production of live bivalve molluscs or other shellfish which are at least as stringent as those contained in the Live Bivalve Molluscs Directive.
4. Any processing (in particular any cooking) of shrimps or molluscs on board a factory vessel shall have been undertaken—
 - (a) in accordance with such of—

(49) OJ No. L 16, 25.1.93, p.22.

(50) OJ No. L 13, 21.1.93, p.11.

(51) OJ No. L 56, 21.1.93, p.42.

(52) OJ No. L 144, 16.6.93, p.23.

(53) OJ No. L 166, 8.7.93, p.31.

- (i) the conditions set out in point 7 of Section IV of Chapter IV,
 - (ii) the standards and other obligations set out in Commission Decision [93/51/EEC](#) on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish, and
 - (iii) the approved treatments set out in Commission Decision [93/25/EEC](#) approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods,
- as are appropriate in the particular circumstances of the case; and
- (b) with equipment which was in accordance with the requirement set out in point 5 of Section I of Chapter III.

5.—(1) Subject to sub-paragraphs (2) and (3), during and after landing, fishery products caught in their natural environment shall have been handled in accordance with Chapter II.

(2) Sub-paragraph (1) shall not apply to processed bivalve molluscs or other shellfish.

(3) Where the competent authority of a country or territory within the European Community other than Great Britain has authorised the transfer of fishery products ex quay into containers for immediate delivery to an approved establishment or registered auction or wholesale market to be checked there, a check on the conditions of landing is not required.

6. Where gutting of the fishery products is or was possible from a technical and commercial viewpoint, those fishery products shall have been gutted as soon as possible after they have been caught or landed.

7. Aquaculture products—

- (a) shall have been slaughtered under appropriate conditions of hygiene within the meaning of article 3(3)(a) of the Council Directive;
- (b) shall not have been soiled with earth, slime or faeces; and
- (c) which were not processed immediately after having been slaughtered, shall have been kept chilled.

8. At establishments on land, all fishery products shall have been handled and, where appropriate, packaged, prepared, processed, frozen, defrosted, stored hygienically and inspected in accordance with requirements at least as stringent as—

- (a) the general conditions for establishments on land set out in Chapter III; and
- (b) where appropriate, the special conditions for handling fishery products set out in—
 - (i) Chapter IV,
 - (ii) Commission Decision [93/25/EEC](#) approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods,
 - (iii) Commission Decision [93/51/EEC](#) on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish, and
 - (iv) Commission Decision [93/140/EEC](#) laying down the detailed rules relating to the visual inspection for the purpose of detecting parasites in fishery products.

9. Fishery products landed in a third country shall have been subject in that country to a system of health control and monitoring at least as stringent as the arrangements for checking and monitoring fishery products contained in—

- (a) Chapter V;

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- (b) Commission Decision [93/351/EEC](#) determining analysis methods, sampling plans and maximum limits for mercury in fishery products; and
 - (c) Council Decision [93/383/EEC](#) on reference laboratories for the monitoring of marine biotoxins.
- 10.** Fishery products shall have been appropriately packaged in accordance with Chapter VI.
- 11.** Fishery products shall have been stored and transported under satisfactory conditions of hygiene in accordance with Chapter VIII.
- 12.** Fishery products which are to be placed on the market live shall have been kept at all times under the most suitable survival conditions.

SCHEDULE 4

Regulation 9

AMENDMENTS TO THE SAFEGUARDS AGAINST CHOLERA REGULATIONS

- 1.** In the definition of “affected country” in paragraph (2) of regulation 1 of the Safeguards against Cholera Regulations(**54**) (interpretation), the words “Brazil, Colombia, Ecuador or” shall be omitted.
- 2.** The following provisions of the Safeguards against Cholera Regulations shall be omitted—
 - (a) regulation 3(**55**) (prohibition on importation of fish products from Ecuador and Colombia)
 - (b) regulation 3A(**56**) (prohibition on importation of fish products from Brazil);
 - (c) Schedule 2 (particulars to be contained in documents relating to fish and bivalve molluscs from Colombia and Ecuador); and
 - (d) Schedule 4(**57**) (contents of SIF certificate relating to fish and heat-treated bivalve molluscs (and their products) from Brazil).
- 3.—(1)** In paragraph (1) of regulation 5 of the Safeguards against Cholera Regulations(**58**) (prohibition on export to other member States of fish products and bivalve molluscs originating in an affected country), the words “other than Brazil” shall be omitted.

(2) In sub-paragraph (a) of paragraph (2) of regulation 5 of the Safeguards against Cholera Regulations, the words “or 3” shall be omitted.
- 4.** In paragraph (1) of regulation 6 of the Safeguards against Cholera Regulations(**59**) (offences), the words “3(1), 3A(1) or (2)” shall be omitted.
- 5.** In paragraph (2) of regulation 7 of the Safeguards against Cholera Regulations(**60**) (application of provisions of the Food Safety Act 1990), the words “the Federal Inspection Service of the Ministry of Agriculture of Brazil” shall be omitted.

(54) As amended by regulation 2(2)(a) of [S.I. 1992/2364](#).

(55) Amended by regulation 2(7) to (9) of [S.I. 1992/2364](#).

(56) Inserted by regulation 2(10) of [S.I. 1992/2364](#).

(57) Inserted by regulation 2(14) of [S.I. 1992/2364](#).

(58) Substituted by regulation 2(5) of [S.I. 1992/2364](#), then amended by regulation 2(11) of [S.I. 1992/2364](#).

(59) Substituted by regulation 2(6) of [S.I. 1992/2364](#), then amended by regulation 2(12) of [S.I. 1992/2364](#).

(60) Amended by regulation 2(7) of [S.I. 1992/2364](#), and regulation 2(13) of [S.I. 1992/2364](#).

SCHEDULE 5

Regulation 10

AMENDMENTS TO THE DEROGATIONS REGULATIONS

- 1.—(1) In paragraph (1) of regulation 2 of the Derogations Regulations (interpretation)—
- (a) in the definition of “the Council Directive”, after the words “fishery products” there shall be inserted the words “, as adapted for the purposes of the EEA Agreement⁽⁶¹⁾”;
 - (b) after the definition of “establishment” there shall be inserted the following definition—

““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽⁶²⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁶³⁾”;
 - (c) for the definition of “fishery products” there shall be substituted the following definition—

““fishery products” means—

 - (a) all seawater or freshwater animals, including their roes; and
 - (b) parts of such animals, except in circumstances where they—
 - (i) are combined (in whatever way) with other foodstuffs, and
 - (ii) comprise less than 10 per cent of the total weight of the combined foodstuffs,but excluding aquatic mammals, frogs and aquatic animals covered by Community Acts other than the Council Directive, and parts of such mammals, frogs and aquatic animals;”;
 - (d) for the definition of “processed product” there shall be substituted the following definition—

““processed” means—

 - (a) except in relation to bivalve molluscs or other shellfish, having undergone a chemical or physical process such as the heating, smoking, salting, dehydration or marinating of chilled or frozen products, or a combination of these various processes;
 - (b) in relation to bivalve molluscs or other shellfish, any process or any combination of processes such as those referred to in sub-paragraph (a) above, unless as a result of that process or combination of processes the bivalve molluscs or other shellfish remain alive;”.

(2) In paragraph (4) of regulation 2 of the Derogations Regulations, after sub-paragraph (d) there shall be inserted the following sub-paragraph—

 - “(e) a reference to the competent authority or the supervisory authorities shall be treated as if it were a reference to the food authority;”.

2.—(1) In the Schedule to the Derogations Regulations (requirements of Chapters I to IV of the Annex), in column (1)—

 - (a) in paragraph 2(a) of Section I of Chapter I (conditions applicable to factory vessels—conditions concerning design and equipment), for the word “holds” there shall be substituted the word “holes”;
 - (b) in each of the following provisions—

⁽⁶¹⁾ See paragraph 24 of the basic texts in Annex I to the EEA Agreement.

⁽⁶²⁾ OJ No. L 1, 3.1.94, p.3.

⁽⁶³⁾ OJ No. L 1, 3.1.94, p.572.

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- (i) paragraph 4 of Section I of Chapter I,
 - (ii) paragraph 1 of Section II of Chapter I (conditions of hygiene relating to on-board handling and storage of fishery products),
 - (iii) paragraph 3 of Section I of Chapter III (general conditions for establishments on land—general conditions relating to premises and equipment),
 - (iv) paragraph 2 of Section IIB of Chapter III (general hygiene conditions applicable to staff),
 - (v) paragraph 1 of Section II of Chapter IV (special conditions for handling fishery products on shore—conditions for frozen products), and
 - (vi) paragraph 2 of Section III of Chapter IV (conditions for thawing products),
- for the words “the Directive”, wherever they occur, there shall be substituted the words “the Council Directive”;
- (c) after paragraph 5 of Section II of Chapter I there shall be inserted the following paragraph—
 - “**5A.**—(1) Subject to sub-paragraph (2), any on-board processing (in particular any cooking) of shrimps or molluscs must be undertaken in accordance with such of—
 - (a) the approved treatments set out in Commission Decision [93/25/EEC](#) approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods; and
 - (b) the standards and other obligations set out in Commission Decision [93/51/EEC](#) on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish,as are appropriate in the particular circumstances of the case.
 - (2) For the purposes of Commission Decision [93/51/EEC](#)—
 - (a) the reference in article 2 to a processing plant shall be treated as if it were a reference to a factory vessel;
 - (b) the reference in article 3(1) to the requirements of article 6 of the Council Directive shall be treated as if it were a reference to Schedule 5 to the Food Safety (Fishery Products) Regulations 1992; and
 - (c) the reference to competent authorities in the first indented paragraph of article 3(2) shall be treated as a reference to the food authority which approved the factory vessel in question.”;
 - (d) in Section IV of Chapter IV (conditions for processed products)—
 - (i) in paragraph 2, for the words from “approved” to “Member State” there shall be substituted the words “a form of treatment mentioned in the Annex to Commission Decision [93/25/EEC](#) approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods”;
 - (ii) in paragraph 4(c), for the words “another approved laboratory” there shall be substituted the words “a laboratory recognised by the competent authority”;
 - (iii) for paragraph 7(c), there shall be substituted the following sub-paragraph—
 - “(c) every manufacturer must carry out microbiological checks at regular intervals, complying with the standards and other obligations set out in Commission Decision [93/51/EEC](#) on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish, but for the purposes of that Commission Decision—

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- (i) the reference in article 3(1) to the requirements of article 6 of the Council Directive shall be treated as if it were a reference to Schedule 5 to the Food Safety (Fishery Products) Regulations 1992; and
 - (ii) the reference in the first indented paragraph of article 3(2) to competent authorities shall be treated as a reference to the food authority which approved the establishment in question.”;
- (e) in paragraph 1 of Section V of Chapter IV (conditions concerning parasites), for the final unnumbered sub-paragraph there shall be substituted the following sub-paragraph—
- “This inspection must be carried out in accordance with the rules set out in the Commission Decision [93/140/EEC](#) laying down the detailed rules relating to the visual inspection for the purpose of detecting parasites in fishery products, but for the purposes of that Commission Decision—
- (a) the competent authority to which article 4 of that Decision refers is the food authority; and
 - (b) the provisions referred to in that article (the provisions in accordance with which a sampling plan must be drawn up) are those specified in Schedule 5 to the Food Safety (Fishery Products) Regulations 1992.”.
- (2) In column (2) of the Schedule to the Derogations Regulations (whether derogation possible and limitations), opposite paragraph 5A of Section II of Chapter I, there shall be inserted the word “no”.

SCHEDULE 6

Regulation 12

AMENDMENTS TO THE PRINCIPAL REGULATIONS

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 definition—
““approved import conditions” has the same meaning as in the Import Conditions Regulations;”;
 - (b) after the definition of “batch” there shall be inserted the following definition—
““bivalve molluscs” means any filter-feeding lamellibranch molluscs;”;
 - (c) in the definition of “the Council Directive”, after the words “fishery products” there shall be inserted the words “, as adapted for the purposes of the EEA Agreement(64)”;;
 - (d) 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(65) as adjusted by the Protocol signed at Brussels on 17th March 1993(66);
“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(67);”;
 - (e) for the definition of “fishery products” there shall be substituted the following definition—

(64) See paragraph 24 of the basic texts in Annex I to the EEA Agreement.

(65) OJ No. L 1, 3.1.94, p.3.

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

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

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“fishery products” means—

- (a) all seawater or freshwater animals, including their roes; and
- (b) parts of such animals, except in circumstances where they—
- (c) are combined (in whatever way) with other foodstuffs, and
- (ii) comprise less than 10% of the total weight of the combined foodstuffs, but excluding aquatic mammals, frogs and aquatic animals covered by Community Acts other than the Council Directive, and parts of such mammals, frogs and aquatic animals;”;

(f) after the definition of “frozen products” there shall be inserted the following definitions—

“the Import Conditions Regulations” means the Food Safety (Fishery Products) (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⁽⁶⁷⁾;”;

(g) after the definition of “means of transport” there shall be inserted the following definition—

“other shellfish” means echinoderms, tunicates or marine gastropods;” and

(h) for the definition of “processed product” there shall be substituted the following definition—

“processed” means—

- (a) except in relation to bivalve molluscs or other shellfish, having undergone a chemical or physical process such as the heating, smoking, salting, dehydration or marinating of chilled or frozen products, or a combination of these various processes;
- (b) in relation to bivalve molluscs or other shellfish, any process or any combination of processes such as those referred to in sub-paragraph (a) above, unless as a result of that process or combination of processes the bivalve molluscs or other shellfish remain alive;”.

2. For regulation 3 of the principal Regulations, there shall be substituted the following regulation—

“Placing fishery products on the market

3.—(1) Subject to paragraph (2), no person shall place on the market for human consumption any fishery products, unless—

- (a) if they have been handled on board a British Islands fishing vessel, the applicable requirements of the Fishing Vessels Directive, as provided for in—
 - (i) the Food Safety (Fishery Products on Fishing Vessels) Regulations 1992⁽⁶⁸⁾,
 - (ii) The Food Safety (Fishery Products on Fishing Vessels) Regulations (Northern Ireland) 1993⁽⁶⁹⁾, or

⁽⁶⁷⁾ See article 1(2) of the Protocol Adjusting the Agreement on the European Economic Area.

⁽⁶⁸⁾ S.I. 1992/3165.

⁽⁶⁹⁾ S.R. 1993 No. 53.

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- (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 that Directive, in so far as it applies to those islands,
are satisfied in relation to those fishery products which he places on the market;
- (b) if they have been handled on board a British Islands factory vessel, the applicable requirements of the Annex and the Council and Commission Decisions, as provided for in—
 - (i) Chapter I of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations 1992,
 - (ii) Chapter I of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992(70), 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 in relation to the conditions applicable to factory vessels by that Annex and those Decisions, in so far as they apply to those islands,
are satisfied in relation to those fishery products which he places on the market;
- (c) if they were landed in the British Islands, during and after landing the applicable requirements of the Annex which relate to landings, as provided for in—
 - (i) Chapter II of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations 1992, or
 - (ii) Chapter II of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992, 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 in relation to landing requirements by that Annex, in so far as it applies to those islands,
are satisfied in relation to those fishery products which he places on the market;
- (d) at establishments on land in the British Islands, they have been handled and, where appropriate, packaged, prepared, processed, frozen, defrosted, stored hygienically and inspected in accordance with the applicable requirements of Chapters III and IV of the Annex and of the Council and Commission Decisions, as provided for in—
 - (i) Chapters III and IV of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations 1992,
 - (ii) Chapters III and IV of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations (Northern Ireland) 1992, 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 those Chapters of that Annex and those Decisions, in so far as they apply to those islands;
- (e) they—
 - (i) in Great Britain, have been subject to such of the health control and monitoring described in Schedule 1 as is appropriate in the particular circumstances of the case,

(70) S.R. 1993 No. 296.

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- (ii) if they have been in Northern Ireland, have been subject to such of the health control and monitoring described in Schedule 1 to the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993⁽⁷¹⁾ as is appropriate in the particular circumstances of the case, or
- (iii) if they have been in the Channel Islands or the Isle of Man, have been subject to such of the health control and monitoring described in Chapter V of the Annex, as provided for in 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 that Chapter, in so far as it applies to those islands and as is appropriate in the particular circumstances of the case,

unless the competent authority authorised the transfer of those fishery products ex quay to an approved establishment or registered auction or wholesale market to be checked there, in which case a check on the conditions of landing is not required;

- (f) they shall have been appropriately packaged in accordance with Schedule 2;
- (g) they comprise or form part of a consignment which bears an identification mark—
 - (i) unless head (ii), (iii) or (iv) applies, which is in accordance with Schedule 3,
 - (ii) which, if they comprise or form part of a consignment which has been given an identification mark in accordance with Schedule 3 of the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993, is in accordance with that Schedule,
 - (iii) which, if they comprise or form part of a consignment which has been given an identification mark 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 VII of the Annex, in so far as it applies to those territories, is in accordance with that law,
 - (iv) which, if those fishery products originate in a country in respect of which the European Commission has adopted approved import conditions, is in accordance with those approved import conditions,

but an identification mark is not required in relation to fishery products which have been landed in a third country in respect of which the European Commission has not adopted any approved import conditions;

- (h) they have been stored and transported under satisfactory conditions of hygiene, in accordance with Schedule 4;
- (i) if they are imported products, 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 fishery products which he places on the market; and
- (j) any additional requirements contained in regulations 4 to 7 which relate to those fishery products are satisfied in relation to those products which he places on the market.

(2) Sub-paragraphs (a) to (c) of paragraph (1) shall not apply to aquaculture products or to processed bivalve molluscs or other shellfish.”

3. For regulation 5 of the principal Regulations (placing aquaculture products on the market) there shall be substituted the following regulation—

(71) S.R. 1993 No. 51.

“Placing aquaculture products on the market

5. No person shall place fishery products which are aquaculture products on the market for human consumption, unless—

- (a) they have been slaughtered under appropriate conditions of hygiene within the meaning of article 3(3)(a) of the Council Directive;
- (b) they have not been soiled with earth, slime or faeces;
- (c) if they were not processed immediately after being slaughtered, they have been kept chilled.”.

4. For regulation 6 of the principal Regulations (placing processed bivalve molluscs and other shellfish on the market) there shall be substituted the following regulation—

“Placing processed bivalve molluscs or other shellfish on the market

6.—(1) Subject to paragraphs (2) and (3), no person shall place fishery products which are processed bivalve molluscs or other shellfish on the market for human consumption unless prior to processing there were satisfied in relation to those processed bivalve molluscs or other shellfish those of the requirements set out in regulation 11 of the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992⁽⁷²⁾ to which those products would have been subject if, when they were processed, they had instead been placed on the market as live bivalve molluscs or other shellfish.

(2) For the purposes of paragraph (1), regulation 11 of the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992 shall apply as if, where reference is made in regulation 11(1)(b) and (4) of those Regulations to transportation to an approved dispatch centre, reference had also been made to transportation to an establishment or factory vessel which has been approved in accordance with—

- (a) regulation 9;
- (b) regulation 8 of the Food Safety (Fishery Products) Regulations (Northern Ireland) 1993;
- (c) 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 in relation to the approval of establishments on land and factory vessels by the Council Directive, in so far as it applies to those islands,

and the requirements in relation to movement documents or permanent transport authorisations set out in regulation 11(1)(b) and Schedule 2 of the Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992 shall apply as if modified accordingly.

(3) Paragraph (1) shall not apply to imported fishery products which were processed before they were imported.”.

5. In paragraph (7) of regulation 9 of the principal Regulations (approval of factory vessels and establishments) for the word “centre” there shall be substituted the words “factory vessel or establishment which is”.

6.—(1) In regulation 11 of the principal Regulations (obligations on proprietors of establishments and factory vessels), after the words “specified in Schedule 5” there shall be inserted the words “as apply to an establishment or a factory vessel”.

(2) After regulation 11 of the principal Regulations, there shall be inserted the following regulation—

⁽⁷²⁾ S.I. 1992/3164; as amended by S.I. 1994/ .

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“Additional obligation for masters of certain third country vessels

11A. Without prejudice to article 4 of Council Regulation (EC) No. 1093/94 setting the terms under which fishing vessels of a third country may land directly and market their catches at Community ports⁽⁷³⁾, the master of a factory vessel of a third country shall, before landing any fishery products in Great Britain which are for placing on the market, give the food authority for the port at which he intends to land those fishery products notice of arrival of at least 24 hours.”.

7.—(1) For paragraphs (1) and (2) of regulation 13 of the principal Regulations (registration of wholesale and auction markets that are not establishments), there shall be substituted the following paragraphs—

“(1) Subject to any applicable derogation, no person shall operate a wholesale or auction market which is not an establishment for the purposes of these Regulations because fishery products are only displayed for sale or sold by wholesale there, unless that market has been registered with the relevant food authority.

(1A) An application for registration pursuant to paragraph (1) shall be in writing and shall be accompanied by such supplementary information, documents, plans and diagrams as are necessary to enable the food authority to determine the application, having regard to the requirements of paragraphs 3 to 7 of Chapter II of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations 1992 (requirements during and after landing).

(1B) In every case the food authority shall notify the applicant in writing of the result of the application and in the case of refusal of the reasons for that refusal.

(2) The relevant food authority shall register a market in respect of which an application is made only if it is satisfied that the market meets such of the requirements in the Council Directive as apply to it, save in so far as—

(a) there is in force in respect of that market any derogation; and

(b) the terms on which that derogation was granted are complied with.”.

(2) After paragraph (3) of regulation 13 of the principal Regulations there shall be inserted the following paragraph—

“(4) Where an appeal against a refusal by a food authority to register a market is made to a magistrates' court or the sheriff in accordance with section 37(1)(c) of the Act as applied by regulation 18(3), the applicant may continue to operate the market to which the appeal relates until such time as the appeal is finally determined.”.

8. In the table in paragraph (2) of regulation 14 of the principal Regulations (sales by fishermen of small quantities of fishery products)—

(a) in Column (a) (species), above the word “Oysters” there shall be inserted the word “Cockles”; and

(b) in Column (b) (maximum amount), opposite the word “Cockles” in Column (a) there shall be inserted the words “25.0 tonnes”.

9. Paragraph (2) of regulation 15 of the principal Regulations (functions of Ministers and food authorities) shall be omitted.

10. In paragraph (2) of regulation 16 of the principal Regulations (offences and penalties), after the word “11,” there shall be inserted the word “11A,”.

11.—(1) In paragraph (1) of regulation 18 of the principal Regulations (application of provisions of the Act), the words “section 32 (powers of entry);” shall be omitted.

(73) OJ No. L 121, 12.5.94, p.3.

(2) After paragraph (2) of regulation 18 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 fishing or factory vessel (in so far as it does not already do so⁽⁷⁴⁾); and
- (b) any reference to the occupier included a reference to the master or other person in charge of the fishing or factory vessel (in so far as it does not already do so).”.

(3) In paragraph (3) of regulation 18 of the principal Regulations, after the words “under regulation 9” there shall be inserted the words “or in relation to a decision to refuse an application for registration under regulation 13”.

12. In regulation 20 of the principal Regulations (amendment of regulations providing for derogations) after the word “amended” there shall be inserted the word “by”.

13.—(1) In sub-paragraph (c) of the unnumbered paragraph in Part I of Schedule 1 to the principal Regulations (health control and monitoring of production conditions)—

- (a) for the words “registered in a member State of the European Community” there shall be substituted the words “wherever registered”;
- (b) in head (i), after the words “conditions of approval” there shall be inserted the words “(where applicable)”; and
- (c) in head (iv), before the words “identification marks” there shall be inserted the words “any necessary”.

(2) After Section C of Part II of Schedule 1 to the principal Regulations, there shall be inserted the following Section—

“D. Microbiological analyses

1.—(1) Subject to sub-paragraph (2), the microbiological standards applicable to the production of cooked crustaceans and molluscan shellfish are those set out in Commission Decision [93/51/EEC](#) on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish⁽⁷⁵⁾.

(2) For the purposes of sub-paragraph (1), the reference in article 2 of Commission Decision [93/51/EEC](#) to a processing plant shall be treated as if it were a reference to an establishment or factory vessel which has been approved for processing fishery products in accordance with regulation 9.

2.—(1) The sampling programme to be established in accordance with article 3 of Commission Decision [93/51/EEC](#), as provided for in—

- (a) paragraph 5A of Section II of Chapter I; and
- (b) paragraph 7(c) of Section IV of Chapter IV,

of the Schedule to the Food Safety (Fishery Products) (Derogations) Regulations 1992 shall be monitored by the food authority which approved the establishment or factory vessel in question.

(2) For the purposes of sub-paragraph (1)—

⁽⁷⁴⁾ 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.

⁽⁷⁵⁾ OJ No. L 13, 21.1.93, p.11.

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- (a) the reference in article 3(1) of Commission Decision [93/51/EEC](#) to the requirements of article 6 of Directive [91/493/EEC](#) shall be treated as if it were a reference to the provisions of Schedule 5; and
- (b) the reference in the first indented paragraph of article 3(2) of that Commission Decision to competent authorities shall be treated as if it were a reference to the food authority mentioned in sub-paragraph (1).”.

14. In the third indented paragraph of Schedule 5 to the principal Regulations (obligations of the proprietor), for the words “advice issued by the Ministers concerning suitable performance assessment schemes” there shall be substituted the words “guidance issued by the Ministers”.

SCHEDULE 7

Regulation 14

AMENDMENTS TO THE IMPORT AND EXPORT REGULATIONS

1. In paragraph (2) of regulation 1 of the Import and Export Regulations (title, commencement, interpretation and application)—

- (a) after the definition of “aquaculture product” there shall be inserted the following definition—

““bivalve molluscs” means filter-feeding lamellibranch molluscs;”;

- (b) the definition of “live bivalve molluscs” shall be omitted; and

- (c) after the definition of “official veterinary surgeon” there shall be inserted the following definition—

““other shellfish” means echinoderms, tunicates or marine gastropods;”.

2. For regulation 5 of the Import and Export Regulations (Application of Part II) there shall be substituted the following regulation—

“Application of Part II

5. This Part of these Regulations shall apply to—

- (a) trade with other member States in products of animal origin which originate in a member State;
- (b) trade with other member States in products of animal origin which—
 - (i) originate in a third country, and
 - (ii) are in free circulation in member States; and
- (c) imported fishery products which—
 - (i) originate in a third country,
 - (ii) were caught in their natural environment, and
 - (iii) have not or had not been on land prior to their importation into the European Community.”.

3.—(1) In paragraph (1) of regulation 7 of the Import and Export Regulations (inspection and checking of imports), for the words “originating in a member State” there shall be inserted the words “to which this Part of these Regulations applies”.

(2) In paragraph (2) of regulation 7 of the Import and Export Regulations, for the words “from another member State” there shall be substituted the words “to which this Part of these Regulations applies”.

(3) In paragraph (4) of regulation 7 of the Import and Export Regulations, for the words “from another member State” there shall be substituted the words “to which this Part of these Regulations applies”.

(4) In paragraph (5) of regulation 7 of the Import and Export Regulations, for the words “entering the establishment from another member State” there shall be substituted the words “which are products to which this Part of these Regulations applies and which enter the establishment”.

(5) In paragraph (6) of regulation 7 of the Import and Export Regulations, for the words “consigned to him from another member State” there shall be substituted the words “which is a product to which this Part of these Regulations applies”.

4. In regulation 13 of the Import and Export Regulations (Application of Part III), after paragraph (b) there shall be inserted “with the exception that this Part of these Regulations shall not apply to imports to which regulation 5(c) of these Regulations applies”.

5.—(1) In each of the provisions to which sub-paragraph (2) refers, after the words “bivalve molluscs” there shall be inserted the words “or other shellfish”.

(2) Those provisions are regulation 15(1) (import procedure), regulation 16(1) (import procedure on fishery products), regulation 17(b) and (c) (free zones and free warehouses), regulation 18(3) (transshipment under customs control) and regulation 19(3) (consignments posing a risk to health and illegal consignments) of the Import and Export Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations create import conditions for fishery products imported into Great Britain, other than those which are imported from Northern Ireland, the Isle of Man or the Channel Islands. In the process of so doing, they implement the remaining parts of Council Directive [91/493/EEC](#) laying down the health conditions for the production and placing on the market of fishery products which were not implemented by the Food Safety (Fishery Products) Regulations 1992 (“the principal Regulations”).

These Regulations also implement, in relation to both imports and domestic production, the additional health conditions contained in Commission Decision [93/25/EEC](#) approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods, Commission Decision [93/51/EEC](#) on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish and Commission Decision [93/140/EEC](#) laying down the detailed rules relating to the visual inspection for the purpose of detecting parasites in fishery products. Commission Decision [93/351/EEC](#) determining analysis methods, sampling plans and maximum limits for mercury in fishery products and Council Decision [93/383/EEC](#) on reference laboratories for the monitoring of marine biotoxins are both implemented in relation to imported fishery products only, as these Decisions do not require legislation for their implementation in relation to domestic fishery products.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 2 is an interpretation provision. Regulation 3 sets out the general conditions under which all fishery products must be imported into Great Britain, other than imports from Northern Ireland, the Isle of Man or the Channel Islands. There are, however, exemptions in relation to private consignments. There are also certain additional requirements in relation to imports of fishery products originating outside the European Economic Area, and these are contained in regulation 4. These additional requirements include compliance with any approved import conditions agreed by the European Commission with particular non-EEA countries, and a list of the Commission Decisions containing those approved import conditions is given in Schedule 1. Where no approved import conditions have been agreed, except in relation to products which are or were landed by third country vessels at European Community ports, importers are required to have a health certificate modelled on the specimen health certificate contained in the Annex to Commission Decision [93/185/EEC](#).

Regulations 5 to 8 make amendments to the Food Hygiene (Scotland) Regulations 1959, the Food Hygiene (Docks, Carriers etc.) Regulations 1960, the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966 and the Food Hygiene (General) Regulations 1970. These amendments modify the application of those sets of Regulations in relation to places where fishery products are handled, and the result is a set of partial and full exemptions from other hygiene requirements for, and for people at, markets registered under regulation 13 of the principal Regulations, and establishments and factory vessels approved under regulation 9 of the principal Regulations. There are also certain partial exemptions from certain temperature control requirements for cooked and chilled crustacean or molluscan shellfish.

Regulation 9 and Schedule 4 make amendments to the Imported Food and Feedingstuffs (Safeguards against Cholera) Regulations 1991 (“the 1991 Regulations”), implementing Commission Decisions [94/199/EC](#), [94/201/EC](#) and [94/270/EC](#). These Commission Decisions repealed earlier Cholera safeguard measures in relation to fishery products from Brazil, Ecuador and Colombia. Because of these repeals, amendments are made to the 1991 Regulations, the effect of which is that the 1991 Regulations no longer cover imports from those countries.

Regulation 10 and Schedule 5 make various amendments to the Food Safety (Fishery Products) (Derogations) Regulations 1992 (“the Derogations Regulations”). The amendments to regulation 2 of the Derogations Regulations clarify what is meant by a fishery product and processing of products, and similar amendments have also been included in the changes to the principal Regulations set out in Schedule 6. Schedules 5 and 6 also contain the various amendments which implement Commission Decisions [93/25/EEC](#), [93/51/EEC](#) and [93/140/EEC](#) domestically, both in relation to factory vessels and establishments on land. There are some other amendments made to the Derogations Regulations to correct earlier drafting errors.

Regulation 11 implements Commission Decision [94/206/EC](#) by amending the Imported Food (Bivalve Molluscs and Marine Gastropods from Japan) Regulations 1992 so as to limit the application of the import prohibition contained in those Regulations to bivalve molluscs and marine gastropods other than frozen or processed scallops and other pectinidae.

Some of the amendments to the principal Regulations which are made by virtue of regulation 12 and Schedule 6 have already been referred to. These amendments also include a number of technical changes which correct minor errors in the principal Regulations, but there are also some other, more substantive changes. These include: expanding the placing on the market provisions to accommodate both the new import conditions contained in these Regulations and products coming from Northern Ireland, the Isle of Man or the Channel Islands; changes to the registration requirements and related procedures for wholesale and auction markets which are not establishments, as defined in the principal Regulations; the removal of a power held by Ministers to direct food authorities in relation to how often they exercise their functions; and the inclusion of a power of entry in relation to fishing and factory vessels. Masters of vessels from third countries also now have to give food authorities 24 hours notice of the intention to arrive at a port, and modifications are made to the general monitoring responsibilities for food authorities at ports. There is a new exemption for

fishermen placing on the market small quantities of cockles, and the mechanism for deciding whether a laboratory is recognised is altered so that food authorities have to have regard to guidance issued by Ministers generally, rather than advice issued by Ministers concerning suitable performance assessment schemes.

Regulation 13 contains an amendment to the Food Safety (Fishery Products on Fishing Vessels) Regulations 1992, conferring a power of entry in relation to fishing vessels.

Regulation 15 stipulates that the import conditions contained in regulations 3 and 4 should be enforced through the Products of Animal Origin (Import and Export) Regulations 1992, and regulation 14 and Schedule 7 make various amendments to those Regulations. These amendments make checks on imports of live echinoderms, tunicates and marine gastropods the responsibility of an authorised officer of a local authority, not an official veterinary surgeon, and checks on health conditions for direct landings of third country fishery products are made subject to the same procedure as exists for similar member State imports, thereby implementing article 18(3) of Council Directive [90/675/EEC](#) laying down the principles governing the organisation of veterinary checks on products entering the European Community from third countries.

Regulation 16 contains some consequential revocations to the Imported Food and Feedingstuffs (Safeguards against Cholera) (Amendment) Regulations 1992 and to the principal Regulations.