EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments the regulations which were made to give effect to the provisions of Council Directive 91/492/EEC laying down the health conditions for the production and placing on the market of live bivalve molluscs, as adapted for the purposes of the EEA Agreement and as amended, and Council Directive 91/493/EEC laying down the health conditions for the production and placing on the market of fishery products, as adapted and as amended, together with a number of Commission Decisions made under these two Council Directives. These Regulations also consolidate with amendments the regulations which were made to give effect to the provisions of Council Directive 92/48/EEC laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with article 3.1(a)(i) of Council Directive 91/493/EEC, and to the measures set out in paragraph 1 of Section II of Chapter III of the Annex to Council Directive 85/73/EEC on the financing of veterinary inspections and controls covered by Directives 89/662/EEC, 90/425/EEC, 90/675/EEC and 91/496/EEC, which is annexed to Council Directive 96/43/EC amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC (OJNo. L162, 1.7.96, p.1). In addition, these Regulations give effect to the amendments made by Council Directive 95/71/EC to the Annex to Directive 91/493/EEC (health conditions for the production and placing on the market of fishery products; *see* Schedule 3 to these Regulations).

The Regulations are made under the Food Safety Act 1990, except for Part V which is made under section 2(2) of the European Communities Act 1972. Part V implements the amendments made by Council Directive 96/43/EC to which reference is made above.

Part I of the Regulations contains general provisions relating to citation, commencement and interpretation (regulations 1 and 2).

Part II contains the provisions relating to the production and placing on the market of live shellfish (defined as live bivalve molluscs, echinoderms, tunicates and marine gastropods, and so excluding crustaceans) in Great Britain. The Ministers have the power to designate certain areas as designated production areas for live bivalve molluscs; relaying areas (areas where bivalve molluscs may be relaid after harvesting to remove contamination) are designated by food authorities (regulation 3). The Ministers may also designate certain areas as prohibited areas for live shellfish production of various kinds (regulation 4) and food authorities may make temporary prohibitions concerning layings (regulation 7). Collecting shellfish from areas subject to a relevant prohibition is an offence (regulation 8). The Ministers may vary and revoke their designations of production and prohibited areas, and food authorities may vary and revoke their designations of relaying areas (regulation 5). The Ministers have an obligation to keep an up-to-date list of designated production and relaying areas (regulation 6).

Part II also contains special requirements relating to the harvesting, transporting and relaying of live shellfish (regulation 9), and to the operation of dispatch and purification centres, which need to be approved by the local food authority (regulations 10 to 13). There are also special rules for the variation and revocation of approvals of such centres (regulation 14 and 15).

Part II also contains special rules for the wrapping, unwrapping, repackaging, storage and transportation of live shellfish within Great Britain (regulations 16 to 18), and detailed obligations relating to the placing on the market of live shellfish (regulation 19). There is, however, an exemption

scheme from most of the requirements of this Part which relates to local sales of small quantities of live shellfish (regulation 20).

Part III of the Regulations deals with the production and placing on the market of fishery products. There is a registration scheme for fishing vessels on board which shrimps and molluscs are cooked, there are hygiene rules for all fishing vessels, and there are special additional rules for certain longer range vessels (regulations 21 and 22). Factory vessels and establishments on land which are involved in the production of fishery products both have to be approved by the local food authority (regulations 23 and 24), and their proprietors have to comply with various specified requirements (regulation 28). Masters of third country factory vessels also have an additional obligation to give the food authority at their port of arrival at least 24 hours notice before they arrive (regulation 29). Auction and wholesale markets also have to be registered, again by the food authority (regulations 25 and 26), and their proprietors also have to comply with certain specified requirements (regulation 30). Provision is also made for appeals against decisions to refuse to approve or register, or to grant approvals but only subject to conditions (regulation 27), and there are procedures (including appeals procedures) relating to the variation and revocation of approvals and the cancellation of market registrations (regulations 31 and 32).

Part III also contains a special rule relating to the timing of gutting of fishery products (regulation 33), and rules relating to the packaging, storage and transportation of fishery products within Great Britain (regulations 34 and 35). There are also detailed obligations relating to the placing on the market of all types of fishery products (regulation 36), with special additional rules relating to the placing on the market of aquaculture products (regulation 37), processed shellfish (regulation 38) and live fish and other aquatic animals (regulation 39). There is, however, a prohibition on selling or supplying in the course of a business certain poisonous fishery products (regulation 40). As with live shellfish, there is an exemption scheme from most of the requirements of this Part which relates essentially to local sales of small quantities of products (regulation 41).

Part IV of the Regulation deals with the import conditions for fishery products and live shellfish (regulations 42 to 45), but there is an exemption from this Part for certain private consignments (regulation 46).

Part V deals with inspection charges for third country direct landings (products landed from third country vessels which have or had not been on land prior to their importation into the European Community). The charge is paid by the first purchaser to the vendor, and an equivalent amount is then passed by the vendor to the food authority (regulations 48 and 49). Some reductions are available in relation to part of this charge where checks are facilitated by specified factors (regulation 50). The vendor is also under an obligation to make a written return in respect of his weekly sales (regulation 51).

Part VI contains more general provisions. These include provisions relating to the health control responsibilities of the Ministers and food authorities (regulation 52), enforcement responsibilities (regulations 54 and 56), certification of shellfish and fishery products as failing to comply with food safety requirements (regulation 57), amendments to other Regulations (regulation 58), and revocations (regulation 59). Regulation 59 also contains a transitional provision.

An assessment of the cost to business of complying with these Regulations has been prepared and copies may be obtained from the Department of Health, Room 501A, Skipton House, 80 London Road, London SE1 6LW, or the Scottish Office Agriculture, Environment and Fisheries Department, Room 358, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TW. A copy has also been placed in the library of each of the Houses of Parliament.