

EXPLANATORY MEMORANDUM TO
THE FISHERY PRODUCTS (OFFICIAL CONTROLS CHARGES)
(ENGLAND) REGULATIONS 2005
2005 No. 2991

1. This explanatory memorandum has been prepared by Food Standards Agency and is laid before Houses of Parliament by Command of Her Majesty.

2. Description

2.1 This instrument provides powers for the execution and enforcement by local food authorities to recover a contribution towards the costs of carrying out hygiene inspection charges in respect of fish and fishery products caught in their natural environment and landed directly in England from:

- Member States'
- EEA States other than Member States
- Greenland, and
- Third countries

2.2 These direct landings of fish and fishery products are not required to enter through controlled points of entry into England. The charges in respect of hygiene controls on direct landings are assessed and made in the first transaction on the basis of the tonnage of fish landed. The vendor must then make a return to the local food authority within a specified period. The authority will then levy the charge on the basis of the landing. For fishery products entering the UK from factory vessels, the master of the vessel must pay the charges laid down within a specified period after the first transaction. The same arrangements apply to proprietors of preparation or processing establishments that accept such fishery products. The costs contribute to the local food authority's legal requirement to:

- check fishing vessels in relation to hygiene controls;
- check on condition of landings and first sale

- make hygiene inspections of establishments and factory vessels on conditions of approval, correct handling, cleanliness and staff hygiene, and health certification and marking; and
- carry out organoleptic, parasitic, chemical, contaminant (heavy metals etc) and microbiological analyses.

3. Matters of special interest to the Select Committee on Statutory Instruments.

3.1 None

4. Legislative Background

4.1 The Instrument is being made to introduce national measures effective from 1 January 2006 to allow for the continued application of current hygiene inspection charges and provisions for direct landings of fish and fishery products into England. New EU Hygiene Regulations, which will apply across the EU from 1 January 2006, will revoke the EU legislative base for the current charging regime (Council Directives 91/492/EEC and 91/493/EEC). This SI is therefore required by EU law to maintain the current charging regime as set down in EU Directive 85/73/EEC, but by reference to the new Hygiene Regulations rather than to the superseded fish hygiene directives

4.2 The new EU Hygiene Regulations do not contain any provisions for the continuation of the current hygiene inspection charges as these are set down in the new Official Feed and Food Control Regulation (No 882/2004). This Regulation will apply across the EU from 1 January 2006; however, the provisions on financing and official controls, including those relating to hygiene inspection charges, do not apply until 1 January 2007.

4.3 The SI is made under the powers given by section 2 (2) of the European Communities Act 1972.

5. Extent

5.1 This instrument applies to England. Parallel legislation is being

developed in Scotland, Wales and Northern Ireland

6. European Convention on Human Rights

6.1 No statement is required.

7. Policy background

7.1 The objective of the EU Directive setting out the charging provisions for hygiene inspections is to ensure that industry contributes to the costs of enforcement authorities in sampling and testing direct landings of fish and certain fishery products to ensure they meet the hygiene standards set down in EU legislation. Such products may enter England without being subject to controls at point of entry and these requirements are therefore necessary to monitor such fish and fishery products to ensure they meet EU hygiene standards and are fit for human consumption.

7.2 New EU food hygiene legislation is to come into force across the EU on 1 January 2006. This legislation will result in the repeal and replacement of a range of current EU and domestic legislation, including that applicable to fish and fishery products hygiene, which includes provision to apply hygiene inspection charges for direct landing of fish and certain fishery products. However, the EU Directive (85/73/EEC) setting out the specific hygiene charges provisions will not be replaced by the new hygiene legislation and therefore new national legislation will be needed to continue to apply charging provisions in England. The legal basis for the new national measures will however be controls specified in the new hygiene legislation in respect of charges for fish and fishery products.

7.3 Over 200 interested parties, including all the relevant local food authorities in England responsible for executing and enforcing the hygiene controls and for applying the charging provisions, were consulted on the draft instrument. A total of 6 responses were received in England with no objection to the proposals.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this Instrument as it has no new or additional impact on business, charities or voluntary bodies. The charges in place under the current regime are being carried forward without change.

9. Contacts

- 9.1 Mike Glavin at the Food Standards Agency
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