

Legal Notice No. 17 of 2005.

ST.HELENA



FISH AND FISH PRODUCTS ORDINANCE, CAP. 89
FISH AND FISH PRODUCTS (MARKETING) REGULATIONS, 2005

In exercise of the powers conferred by section 6 of the Fish and Fish Products Ordinance Cap. 89 the Governor in Council makes the following regulations:

PART 1
PRELIMINARY

Short title

1. These regulations may be cited as the Fish and Fish Products (Marketing) Regulations 2005.

Application

2. These regulations shall apply only to St. Helena and not to its dependencies of Ascension Island and Tristan da Cunha.

Interpretation

3. (1) In these regulations reference to “the Ordinance” means the Fish and Fish Products Ordinance (including any amendments made to it from time to time), and the provisions contained in section 2 of the Ordinance governing interpretation shall apply to these regulations.

(2) Subject to subregulation (1), and for the purposes thereof, and unless the context otherwise requires—

“**abroad**” means any country or territory other than St. Helena, Ascension Island or Tristan Da Cunha;

“aquaculture products” means all fish and fish products born and raised in controlled conditions until placed on the market as a foodstuff, and shall include seawater or freshwater fish or crustaceans caught in their natural environment when juvenile and kept until they reach the desired commercial size for human consumption, but exclude such products kept alive to be later sold without any prior attempt being made to increase their size or weight;

“batch” means a quantity of fish or fish products obtained under practically identical circumstances;

“chilling” means the process of cooling fish or fish products to a temperature approaching that of melting ice;

“clean seawater” means seawater or briny water which is free from microbiological contamination, harmful substances and/or toxic marine plankton in such quantities as may affect the health quality of fish or fish products;

“competent authority” means the body referred to in regulation 5 of these regulations;

“consignment” means a quantity of fish or fish products bound for one or more customers, whether resident locally or abroad, and conveyed by one means of transport only;

“detention notice” means a notice served on the relevant person or his duly authorised representative by the competent authority in accordance with regulation 50(5);

“establishment” means any premises where fish or fish products are prepared, processed, chilled, frozen, packaged or stored, but excludes auction and wholesale markets;

“exportation” means the introduction abroad of any fish or fish products from St. Helena;

“factory vessels” means any vessel on which fish or fish products undergo any operation of filleting, slicing, skinning, mincing, freezing or processing before packaging, but excludes fishing vessels on which only freezing or cooking of shrimps or molluscs on board is carried out;

“fresh products” means any fish or fish product, whether whole or prepared, including products packaged under vacuum or in a modified atmosphere which have not undergone any treatment to ensure preservatives other than chilling;

“frozen products” means any fish or fish product which has undergone a freezing process to reach a core temperature of minus 18 degrees centigrade or lower after temperature stabilisation;

- “**hygiene improvement notice**” means a notice served on a relevant person in accordance with regulation 46;
- “**hygiene prohibition order**” means an order made by the court under regulation 48;
- “**hygiene emergency prohibition notice**” means a notice served on the relevant person by the competent authority in accordance with regulation 49(1);
- “**hygiene emergency prohibition order**” means an order made by the court under regulation 49(2);
- “**means of transport**” means those parts set aside for goods in any motor vehicle, aircraft, the holds of vessels, and containers for transport by land, sea or air;
- “**packaging**” means the procedure of protecting fish or fish products by a wrapper, container or any other suitable device;
- “**placing on the market**” means the holding or displaying for sale, offering for sale, selling, delivering or any other form of placing on the market for local consumption or for export abroad;
- “**prepared products**” means any fish or fish product which has undergone an operation affecting its anatomical wholeness, such as gutting, heading, slicing, filleting or chopping;
- “**preserve**” means the process by which products are packaged in hermetically sealed containers and subjected to heat treatment to the extent that any micro-organisms that may proliferate are destroyed or inactivated irrespective of the temperature at which the product is to be stored;
- “**processed products**” means any fish or fish product which has undergone a chemical or physical process, such as the heating, smoking, salting, dehydration or marinating of chilled or frozen products, whether or not associated with other foodstuffs, or a combination of these various processes;
- “**relevant person**” means any person, who is engaged in any activity or business that is governed by these regulations;
- “**remedial action notice**” means a notice served in the relevant person or his duly authorised representative by the competent authority in accordance with regulation 50(1);

Compliance with Directive 91/493/EEC

4. These regulations are made for the purposes of incorporating into the laws of St. Helena the provisions of Directive No. 493 of 1991, made by the Council of the European Communities on 22nd July 1991, laying down the health conditions for the production and placing on the market of fish and fish products, intended for human consumption, so far as such provisions are capable of taking effect.

Competent Authority

5. The Governor shall by Order in the *Gazette* appoint a body to be the Competent Authority for the purposes of these regulations and persons to be members of that body, under the Chairmanship of the Senior Medical Officer to carry out the functions of the Competent Authority under these regulations and to perform such other functions as the Governor may consider appropriate in relation to the operation of these regulations. Such persons shall be appointed for such period and on such terms as the Governor may determine and the Governor shall have the power at any time to prolong, renew or terminate such appointment by Order in the *Gazette*.

PART 2

FACTORY VESSELS

Minimum requirements for factory vessels

6. The competent authority shall ensure that the following minimum requirements are complied with in respect of factory vessels—

- (a) a reception area set aside for taking fish or fish products on board, designed and arranged into pounds or pens that are large enough to allow each successive catch to be separated. The reception area and its movable parts must be easy to clean. It shall be designed in such a way as to protect the products from the sun or the elements and from any source of dirt or contamination;
- (b) a system for conveying fish or fish products from the reception area to the work area that conforms with rules of hygiene;
- (c) work areas that are large enough for the preparation and processing of fish or fish products in proper conditions of hygiene. They must be designed and arranged in such a way as to prevent any contamination of the product;
- (d) storage areas for the finished products that are large enough and designed so that they are easy to clean. If a waste processing unit operates on board, a separate hold must be designated for the storage of these by-products;
- (e) a place for storing packaging materials that is separate from the product preparation and processing areas;
- (f) special equipment for pumping waste or fish or fish products that are unfit for human consumption either directly into the sea or, where circumstances so require, into a watertight tank reserved for that purpose. If waste is stored and processed on board with a view to cleaning, separate areas must be allocated for that purpose;

- (g) equipment providing a supply of potable water or pressurised clean seawater. The seawater intake must be situated in a position where it is not possible for the water being taken in to be affected by discharges into the sea of waste water, waste and engine coolant outlets;
- (h) a suitable number of changing rooms, wash basins and toilets, the latter not opening directly onto areas where fish or fish products are prepared, processed or stored. The wash basins must be equipped with appliances for washing and drying the hands that comply with hygiene requirements and the washbasin taps must not be hand-operable.

Areas used for the preparation etc, of fish and fish products

7. With respect to all areas of a factory vessel used for the preparation and processing or freezing or quick freezing of fish and fish products, the competent authority shall ensure compliance with the following minimum requirements—

- (a) a non-slip floor that is also easy to clean and disinfect and equipped for easy drainage of water. Structures and fixtures must have limber holds that are large enough not to be obstructed by fish waste and to allow water to drain freely;
- (b) walls and ceilings that are easy to clean, particularly where there are pipes, chains or electricity conduits;
- (c) the hydraulic circuits must be arranged or protected in such a way as to ensure that it is not possible for any leakage of oil to contaminate fish or fish products;
- (d) adequate ventilation and, where necessary, proper vapour extraction;
- (e) adequate lighting;
- (f) appliances for cleaning and disinfecting tools, equipment and fittings;
- (g) appliances for cleaning and disinfecting the hands with taps that are not hand-operable, and with single use towels.

Equipment and tools on factory vessels

8. All cutting benches, containers, conveyors, gutting or filleting machines and other equipment or tools used upon fish or in relation to fish products shall be resistant to seawater corrosion, easy to clean, disinfected and well maintained.

Freezing operations on factory vessels

9. A factory vessel which freezes fish or fish products shall have—

- (a) a refrigeration plant sufficiently powerful to lower the temperature rapidly to achieve a core temperature that complies with the specifications of these regulations;
- (b) refrigeration plants sufficiently powerful to keep fish and fish products in the storage holds at a temperature which complies with the specifications of these regulations. The storage holds must be equipped with a temperature recording system placed so that it can easily be consulted.

Competent authority boarding factory vessels

10. The competent authority may board a factory vessel for the purpose of ensuring compliance with this Part of these regulations and to ensure that good fish and fish products manufacturing practices generally are being applied. The competent authority shall be afforded all reasonable facilities for inspection, and shall maintain a register of the results thereof and, in particular, the temperature recordings that may be required.

General conditions of hygiene on factory vessels

11. The general conditions of hygiene on factory vessels for the purposes of these regulations which are applicable to—

- (a) areas and equipment, shall be those referred to in regulations 16 and 17; and
- (b) staff, shall be those referred to in regulations 18 and 19; and
- (c) heading, gutting and filleting, shall be those referred to in regulation 20; and
- (d) on-board processing of fish and fish products, shall be those referred to in regulations 22, 23, and 24; and
- (e) wrapping and packaging of fish and fish products shall be those referred to in regulations 34, 35, 36 and 37; and
- (f) on-board storage of fish and fish products, shall be those referred to in regulations 39 and 40.

PART 3**REQUIREMENTS DURING AND AFTER LANDING****Construction of equipment**

12. All unloading and landing equipment shall be constructed of material which is easy to clean and disinfect, and shall at all times it is intended to be used maintained in a good state of repair and cleanliness.

Avoidance of contamination

13. Contamination of fish and fish products shall be avoided during operations of unloading and landing. In particular, there shall be an obligation to ensure that—

- (a) unloading and landing operations proceed rapidly;
- (b) fish and fish products are placed without unnecessary delay in a protected environment at the temperature required on the basis of the nature of the product and, where necessary, in ice in transport, storage or market facilities, or in an establishment;
- (c) equipment and handling practices that cause unnecessary damage to the edible parts of the fish and fish products are not authorised.

Auction and wholesale markets

14. All parts of auction or wholesale markets where fish or fish products are displayed for sale shall—

- (a) be covered and have walls which are easy to clean;
- (b) have waterproof flooring which is easy to wash and disinfect and laid in such a way as to facilitate the drainage of water, and have a hygienic waste water disposal system;
- (c) be equipped with sanitary facilities with an appropriate number of wash basins and flush lavatories. Wash basins shall be supplied with materials for cleaning the hands and single use hand towels;
- (d) be well lit to facilitate the inspection of fish and fish products provided for in Part 6 of these regulations;
- (e) when they are used for display or storage of fish or fish products, not be used for other purposes; vehicles emitting exhaust fumes which may impair the quality of the fish or fish products shall not be admitted to markets; undesirable animals shall not be admitted;
- (f) be cleaned regularly and at least after each sale; crates shall, after each sale, be cleaned and rinsed inside and outside with potable water or clean seawater; where required, they shall be disinfected;
- (g) have displayed in prominent position signs prohibiting smoking, spitting, eating and drinking;
- (h) be closeable and be kept closed when the competent authority considers it necessary;

- (i) have facilities to provide the adequate water supplies referred to in regulation 16(g);
- (j) have special watertight receptacles made of corrosion-resistant materials for fish or fish products, which are unfit for human consumption;
- (k) insofar as they do not have their own premises on-the-spot or in the immediate vicinity on the basis of the quantities displayed for sale, have, for the purposes of the competent authority, an adequately equipped lockable room and the equipment necessary for carrying out inspections.

Transportation not to be delayed

15. After landing or, where appropriate, after first sale, all fish and fish products shall be transported without delay in accordance with the provisions of Part 9 of these regulations to their intended place of destination:

Provided that if such provisions are not complied with, the markets in which fish or fish products may be stored before being displayed for sale, or after being sold and pending transportation to the intended destination, shall have sufficiently large cold rooms, be stored at a temperature approaching that of melting ice and comply with all applicable conditions referred to in Part 4 of these regulations with respect to hygiene.

PART 4**GENERAL CONDITIONS FOR ESTABLISHMENTS ON LAND****General requirements concerning premises and equipment**

16. Every establishment shall afford the following minimum facilities—

- (a) working areas of sufficient size for work to be carried out under adequate hygienic conditions. Their design and layout shall be such as to preclude contamination of the product and keep quite separate the clean parts from parts of the building which may be subject to contamination;
- (b) in areas where products are handled, prepared and processed—
 - (i) waterproof flooring which is easy to clean and disinfect and laid down in such a way as to facilitate the drainage of the water or provided with equipment to remove water;
 - (ii) walls which have smooth surfaces and are easy to clean, durable and impermeable;
 - (iii) ceilings or roof linings which are easy to clean;

- (iv) doors in durable materials which are easy to clean;
- (v) adequate ventilation and, where necessary, good steam and water-vapour extraction facilities;
- (vi) adequate natural or artificial lighting;
- (vii) an adequate number of facilities for cleaning and disinfecting hands. In workrooms and lavatories taps must not be hand-operable. These facilities must be provided with single use hand towels;
- (viii) facilities for cleaning plant, equipment and utensils;
- (c) in cold rooms where fish or fish products are stored, the facilities referred to in paragraph (b)(i), (ii), (iii), (iv) and (vi), and where necessary a sufficiently powerful refrigeration plant to keep products at temperatures provided for by these regulations;
- (d) appropriate facilities for protection against insects, rodents, birds and other pests;
- (e) instruments and working equipment such as cutting tables, containers, conveyor belts and knives made of corrosion-resistant materials, easy to clean and disinfect;
- (f) special watertight, corrosion-resistant containers for fish and fish products not intended for human consumption and premises for the storage of such containers if they are not emptied at least at the end of each working day;
- (g) facilities to provide adequate supplies of potable water or alternatively of clean seawater or seawater treated by an appropriate system, under pressure and in sufficient quantity. However, by way of exception, a supply of non-potable water shall be permissible for the production of steam, fire-fighting and the cooling of refrigeration equipment, provided that the pipes installed for the purpose preclude the use of such water for other purposes and present no risk of contamination of the products. Non-drinking water pipes must be clearly distinguished from those used for potable water or clean seawater;
- (h) hygienic waste water disposal system;
- (i) an adequate number of changing-rooms with smooth, water-proof, washable walls and floors, wash basins and flush lavatories. The latter shall not open directly onto the workrooms. The wash basins shall have materials for cleaning the hands and disposable towels; the wash basin taps must not be hand-operable;

- (j) if the volume of products treated requires regular or permanent presence, an adequately equipped lockable room for the exclusive use of the inspection service;
- (k) adequate facilities for cleaning and disinfecting means of transport. However, such facilities shall not be compulsory if there is a requirement for the means of transport to be cleaned and disinfected at facilities officially authorised by the competent authority;
- (l) establishments keeping live animals such as crustaceans and fish must have appropriate fittings ensuring the best survival conditions provided with water of a quality such that no harmful organisms or substances are transferred to the animals.

General conditions of hygiene applicable to premises and equipment of establishments

17. The conditions of hygiene applicable to establishments and the equipment used therein shall meet the following requirements—

- (a) floors, walls and partitions, ceilings or roof linings, equipment and instruments used for working on fish or fish products shall be kept in a satisfactory state of cleanliness and repair, so that they do not constitute a source of contamination for the products;
- (b) rodents, insects and any other vermin shall be systematically exterminated in the premises or on the equipment; rodenticides, insecticides, disinfectants and any other potentially toxic substances shall be stored in premises or cupboards which can be locked; their use shall not present any risk of contamination of the products;
- (c) working areas, instruments and working equipment shall be used only for work on fish and fish products. However, following authorisation by the competent authority they may be used at the same time or other times for work on other foodstuffs;
- (d) potable water or clean seawater must be used for all purposes. However, by way of an exception, non-potable water may be used for steam production, fire-fighting and the cooling of refrigeration equipment, provided that the pipes installed for the purpose preclude the use of such water for other purposes and present no risk of contamination of the products;
- (e) detergents, disinfectants and similar substances shall be approved by the competent authority and used in such a way that they do not have adverse effects on the machinery, equipment and products.

General conditions of hygiene applicable to staff of establishments

18. All staff employed in establishments shall have a duty to observe the highest possible standard of cleanliness. In particular—

- (a) staff shall wear suitable clean working clothes when on duty, and headgear which completely encloses the hair. This requirement shall apply especially to persons handling exposed fish or fish products;
- (b) staff who handle or prepare fish or fish products shall wash their hands at least each time work is resumed, and ensure that any abrasion of the skin or other wound to the hands is covered by a suitable waterproof dressing;
- (c) smoking, spitting, eating and drinking in work and storage premises of fish or fish products shall be prohibited, and a notice to that effect be conspicuously displayed at or near to all such places.

Duty of employer of staff in establishments

19. The employer of persons engaged to work in an establishment shall—

- (a) take all necessary and appropriate measures to prevent any person liable to contaminate fish or fish products from working on or handling them, until he is satisfied that such person can do so without risk; and
- (b) ensure before recruiting any person to work on or handle any fish or fish products that a medical certificate has been produced to the effect that there is no impediment to such employment.

PART 5

GENERAL CONDITIONS FOR HANDLING FISH AND FISH PRODUCTS ON SHORE

Conditions applicable to fresh products

20. (1) Where chilled, unpacked products are not dispatched, prepared or processed immediately after reaching an establishment, they shall be stored or displayed under ice in the establishment's cold room. Re-icing shall be carried out as often as is necessary; the ice used, with or without salt, shall be made from potable water or clean seawater and be stored under hygienic conditions in receptacles provided for the purpose; such receptacles shall be kept clean and in a good state of repair. Prepacked fresh products shall be chilled with ice or mechanical refrigeration plant creating similar temperature conditions.

(2) If they are not carried out on board, operations such as heading and gutting shall be carried out hygienically. The products shall be washed thoroughly with potable water or clean seawater immediately after such operations.

(3) Operations such as filleting and slicing shall be carried out in such a way as to avoid the contamination or spoilage of fillets and slices, and in a place other than that used for heading and gutting operations. Fillets and slices shall not remain on worktables any longer than is necessary for their preparation. Fillets and slices to be sold fresh shall be chilled as quickly as possible after preparation.

(4) Offal and parts that may constitute a danger to public health shall be separated from and removed from the vicinity of products intended for human consumption.

(5) Containers used for the dispatch or storage of fresh fish or fish products shall be designed in such a way as to ensure both their protection from contamination and their preservation under sufficiently hygienic conditions and, more particularly, they shall provide adequate drainage of melt water.

(6) Where special facilities are not provided for its continuous disposal, waste shall be placed in leakproof and covered containers that are easy to clean and disinfect. No waste shall be allowed to accumulate in any working area, but shall be removed either continuously or as soon as the containers are full, and at least at the end of each working day in the containers or to the premises referred to in regulation 16(f). The containers, receptacles and/or premises provided for waste shall always be thoroughly cleaned and, if appropriate, disinfected after use. Waste stored there shall not constitute a source of contamination for the establishment or pollution of its surroundings.

Conditions applicable to frozen products

21. (1) All establishments storing, dealing with or handling frozen products shall have—

- (a) freezing equipment sufficiently powerful to achieve a rapid reduction in the temperature, so that the temperatures provided for by these regulations can be obtained in the product; and
- (b) freezing equipment sufficiently powerful to keep products in storage rooms at temperatures not exceeding those provided for by these regulations, whatever the ambient temperature may be:

Provided that for technical reasons related to the method of freezing and to the handling of such products, for whole fish in brine and intended for canning or tinning, higher temperatures than those provided for by these regulations shall be acceptable, if they do not exceed minus nine degrees centigrade.

(2) Fresh products intended to be frozen or quick frozen shall comply with the requirements of regulation 20.

(3) All storage rooms shall have a thermometer or other temperature recording device in a place where it can easily be read. The temperature sensor of such thermometer or other device shall be located in the area furthest away from the cold source, namely where the temperature in the storage room is the highest.

(4) Temperature charts shall be available for inspection by the competent authority at least during the period in which the products are stored.

Conditions applicable to thawing of products

22. All establishments carrying out thawing operations shall comply with the following requirements—

- (a) fish and fish products shall be thawed under hygienic conditions, contamination avoided and adequate drainage provided for any melt water produced. During thawing, the temperature of the product shall not be allowed to increase excessively.
- (b) after thawing, fish and fish products shall be handled in accordance with the requirements of these regulations, and when prepared or processed such operations carried out without delay. If put directly onto the market, particulars as to the thawed state of the fish shall be clearly marked on the packaging in accordance with any law for the time being in force concerning the labelling, presentation and advertising of foodstuffs.

Conditions applicable to processed products

23. (1) Fresh, frozen and thawed products used for processing shall comply with the requirements of regulation 20, 21 or 22, as the case shall require.

(2) Where the processing treatment is carried out to inhibit the development of pathogen micro-organisms, or if it is a significant factor in the preservation of the product, such treatment shall be scientifically recognised by any law for the time being in force.

(3) The person in charge of or responsible for an establishment shall keep a register of the processing carried out, and all data concerning heating time and temperature, salt and water content, and any other relevant information shall be monitored and controlled. Records shall be kept at least for the expected storage life of the products, and be available for inspection by the competent authority.

(4) In the case of products that are preserved for a limited period by a treatment such as salting, smoking, drying or marinading, the appropriate storage conditions shall be clearly marked on the packaging.

Canning or tinning of fish or fish products

24. Where fish or fish products have been subjected to sterilisation in hermetically sealed containers—

- (a) the water used shall be potable;

- (b) the process used for the heat treatment shall be appropriate, having regard to such major criteria as the heating time, temperature, filling, size of containers and such like, a record of which shall be kept; the heat treatment shall be capable of destroying or inactivating pathogenic organisms and the spores of pathogenic micro-organisms. The heating equipment shall be fitted with devices for verifying whether the containers have in fact undergone appropriate heat treatment. Potable water shall be used to cool containers after heat treatment, without prejudice to the presence of any chemical additives used in accordance with good technological practice to prevent corrosion of the equipment and containers.
- (c) further checks shall be carried out at random to ensure that the processed products have undergone appropriate heat treatment, namely—
 - (i) incubation tests, which shall be carried out at thirty seven degrees centigrade for seven days, or at thirty-five degrees centigrade for ten days, or at any other equivalent combination; and
 - (ii) microbiological examination of the contents and the containers in either the establishment's laboratory or in another laboratory approved by the competent authority;
- (d) samples shall be taken of production each day at predetermined intervals, to ensure the efficiency of sealing. For that purpose, appropriate equipment shall be available for the examination of cross-sections of the can seams;
- (e) checks shall be carried out to ensure that containers are not damaged; and
- (f) all containers, which have undergone heat treatment under practically identical conditions, shall be given a batch identification mark, in accordance with any law for the time being in force concerning indications or marks identifying the lot to which a foodstuff belongs.

Restrictions on smoking of fish and fish products

25. (1) Smoking shall be permitted only in separate premises or in a special place equipped, if necessary, with a ventilation system to prevent the smoke and heat from the combustion from affecting other premises or places where fish or fish products are prepared, processed or stored.

(2) Materials used to produce smoke for the smoking of fish shall be stored away from the place of smoking and shall be used in such a way that they do not contaminate the fish and fish products.

(3) The production of smoke for the smoking of fish by burning wood that has been painted, varnished, glued or has undergone any chemical preservation treatment shall be prohibited.

(4) After smoking, fish or fish products shall be cooled rapidly to the temperature required for their preservation before being packaged.

Salting of fish or fish products

26. (1) All salting operations shall take place in different premises sufficiently removed from other operations being carried out.

(2) Salt used in the treatment of fish or fish products shall be clean, stored in a manner which precludes contamination, and not re-used. Containers used for salting or brining shall be constructed in a manner which precludes contamination during the salting or brining process, and they and areas used for salting or brining shall be cleaned before use.

Cooking of crustacean and molluscan shellfish products

27. Crustaceans and molluscan shellfish shall be cooked in accordance with the following provisions—

- (a) any cooking shall be followed by rapid cooling. Water used for this purpose shall be potable water or clean seawater. If no other method of preservation is used, cooling shall continue until the temperature approaching that of melting ice is reached;
- (b) shelling or shucking shall be carried out under hygienic conditions avoiding the contamination of the product. Where such operations are done by hand, workers shall pay particular attention to the washing of their hands and all working surfaces shall be cleaned thoroughly. If machines are used, they shall be cleaned at frequent intervals and disinfected after each working day;
- (c) after shelling or shucking, cooked products shall immediately be frozen or kept chilled at a temperature which will preclude the growth of pathogens, and be stored in appropriate premises;
- (d) every manufacturer shall carry out micro-biological checks on his production at regular intervals in accordance with the provisions of these regulations in so far as those provisions may be applicable.

Mechanically recovered fish flesh

28. The mechanical recovery of fish flesh shall be subject to the following conditions—

- (a) mechanical recovery of gutted fish shall take place without undue delay after filleting, using raw materials free of guts. Where whole fish are used, they shall be gutted and washed before being processed;
- (b) all machinery used in such processing shall be cleaned at frequent intervals and at least every two hours;
- (c) after recovery, mechanically recovered flesh shall be frozen as quickly as possible or incorporated in a product intended for freezing or stabilising treatment.

PART 6**HEALTH CONTROL AND MONITORING OF PRODUCTION CONDITIONS****General monitoring**

29. For the purpose of complying with the provisions of these regulations, the competent authority shall make suitable administrative checking and monitoring arrangements that shall include—

- (a) a check on the fishing vessels, on the understanding that such a check may be carried out during the stay in port;
- (b) a check on the conditions of landing and first sale;
- (c) an inspection of establishments at regular intervals to ascertain—
 - (i) whether the conditions for approval are still fulfilled;
 - (ii) whether the fish and fish products are handled correctly;
 - (iii) the cleanliness of the premises, facilities and instruments and staff hygiene;
 - (iv) whether identification marks are put on correctly;
- (d) an inspection of the wholesale and auction markets;
- (e) a check on storage and transport conditions.

Organoleptic checks

30. (1) Every batch of fish or fish products shall, on request, be produced for inspection by the competent authority at the time of landing or before first sale to check whether they are fit for human consumption. Such inspection shall comprise an organoleptic check carried out by sampling.

(2) The organoleptic examination provided for by subregulation (1) shall be repeated after the first sale of fish or fish products, if it is found that any applicable provisions of these regulations have not been complied with, or when the competent authority shall deem it necessary.

(3) If an organoleptic examination reveals that any fish or fish products are not fit for human consumption, measures shall be taken forthwith to withdraw the same from the market, and dealt with in such manner that they cannot be used for human consumption.

(4) If any organoleptic examination reveals doubt as to the freshness or fitness of any fish or fish products, use may be made of approved methods of chemical checks or microbiological analyses.

Parasite checks

31. All fish or fish products intended to be released on the market for human consumption shall, during production and before being released for human consumption, be subjected to a visual inspection for the purpose of detecting and removing any visible parasites. Fish or parts thereof or any fish products from which any parasite is removed shall not be placed on the market for human consumption.

Chemical checks

32. When chemical checks are to be carried out by the competent authority samples must be taken and subjected to laboratory analysis for the control of the following parameters—

- (a) TVB-N (Total Volatile Basic-Nitrogen), in respect of which TVB-N limits must not exceed 25 milligrams of nitrogen per 100 grams of flesh of any species;
 - (i) the reference method to be used for checking the TVB-N limit is the method involving distillation of an extract deproteinized by perchloric acid as set out in Annexes II and III of Commission Decision 95/149/EC of 8th March 1995 [7] (“the Decision”) read together with article 3 of the Decision;
 - (ii) the routine methods which may be used to check the TVB-N limit are those specified in article 2(3) of the Decision;
 - (iii) the sample must consist of about 100 grams of flesh, taken from at least 3 different points and mixed together by grinding;
- (b) TMA-N (trimethylamine-Nitrogen);
- (c) Histamine, in respect of which—

- (i) nine samples must be taken from each batch; these must fulfil the following requirements –
 - A. the mean value must not exceed 100 parts per million (“ppm”);
 - B. two samples may have a value of more than 100 ppm but less than 200 ppm;
 - C. no sample may have a value exceeding 200 ppm;
- (ii) these limits apply only to fish species of the families *Scrombridae* and *Coryphaenidae*; Examinations must be carried out in accordance with reliable, scientifically recognised methods, such as high- performance liquid chromatography.

Contaminants present in the aquatic environment

33. (1) Without prejudice to European Community rules concerning water protection and management, and in particular those concerning pollution of the aquatic environment, fishery products must not contain in their edible parts contaminants present in the aquatic environment such as heavy metals and organochlorinated substances at such a level that the calculated dietary intake exceeds the acceptable daily or weekly intake for humans, which said levels are laid down in Commission Regulation (EC) No 466/2001.

(2) The Competent Authority shall establish a monitoring system to check the levels of such contamination of fishery products.

PART 7

PACKAGING

General provisions affecting packaging

34. All packing operations of fish and fish products shall be carried out under satisfactory conditions of hygiene, to preclude contamination thereof.

Materials used for packaging

35. All packaging materials and products liable to enter into contact with any fish or fish products shall comply with all the provisions of these regulations regarding hygiene, and in particular shall—

- (a) not be such as to impair the organoleptic characteristics thereof; and
- (b) not be capable of transmitting thereto any substance which may be harmful to human health; and
- (c) be strong enough to afford adequate protection.

Re-use of certain packaging containers

36. Only containers made of impervious, smooth and corrosion resistant materials that are easy to clean and disinfect, and are so cleaned and disinfected, may be re-used. Packaging materials used for fresh products held under ice shall provide adequate drainage for melt water.

Unused packaging materials

37. Unused packaging materials shall be stored in premises away from the production area and be protected from dust and contamination.

PART 8

IDENTIFICATION MARKS

General provisions affecting identification marks

38. Without prejudice to the provisions of these regulations concerning the marking for identification purposes of fish or fish products to be placed on the market for sale locally or export abroad, the following information shall be clearly shown on the packaging or, where appropriate, any accompanying documents—

- (a) the country, territory or other place of dispatch; and
- (b) identification of the establishment by its official approval number, or the registration number of the auction or wholesale market.

PART 9

STORAGE AND TRANSPORT

Temperatures during storage and transport

39. During storage and transport all fish and fish products intended for human consumption shall be kept at the temperatures provided for by these regulations, and in particular—

- (a) fresh or thawed fish and fish products, and cooked and chilled crustacean and molluscan shellfish products shall be kept at the temperature of melting ice;
- (b) frozen fish or fish products, with the exception of frozen fish in brine intended for the manufacture of canned foods, shall be kept at an even temperature of minus eighteen degrees centigrade or less in all parts of the product, allowing for the possibility of brief upward fluctuations of not more than three degrees centigrade during transport;
- (c) processed products shall be kept at the temperatures specified by the manufacturer, when the circumstances so require.

Transportation of products to be thawed

40. Where frozen fish or fish products are transported from a cold storage plant to an approved establishment to be thawed on arrival for the purposes of preparation and/or processing, and where the distance to be covered does not exceed a journey time of one hour, the competent authority may agree that the provisions of regulation 39 need not be complied with.

Mixing products during storage or transport

41. No fish or fish products shall be stored or transported with other products, which may contaminate them, or affect their hygiene, unless they are packed in a manner that will ensure satisfactory protection therefrom.

Transportation by motor vehicles

42. All vehicles used for the transport of fish and fish products intended to be placed on the market for human consumption shall be equipped in such manner that the temperatures provided for by these regulations can be maintained for the whole of the journey. If ice is used to chill any products, adequate drainage shall be provided to ensure that water from melted ice does not remain in contact therewith. The inside surface of such vehicles shall be finished in a manner that does not adversely affect the fish or fish products, and be smooth and easy to clean and disinfect.

Transportation of live fish or fish products

43. It shall not be lawful to transport any live fish, intended to be sold when still alive, or any fish products, in a manner likely to affect adversely such fish or fish products.

PART 10

LICENSING PROVISIONS

Application for licence

44. (1) Any person who intends to cure fish, or to manufacture fish or fish products, intended for commercial marketing locally or for export to another country or territory shall submit to the Chief Secretary an application for the grant of a licence in the Form set out in the First Schedule to these regulations.

(2) Before submitting an application for a licence in accordance with this regulation an applicant shall ensure that the premises in which the business is intended to be carried on is inspected by the competent authority.

(3) All applications for licences made under this regulation shall be accompanied by a report of the competent authority.

Grant of licence

45. The Governor in Council shall consider any application for a licence made in accordance with regulation 44 and may issue a licence in the Form set out in the First Schedule to these regulations, subject to such conditions as the Governor in Council may think appropriate when taking into account the nature of the licence applied for.

Fees

46. The fees set out in the Second Schedule to these regulations shall be payable in respect of the several matters set out therein.

PART 11

ENFORCEMENT OF REGULATIONS

Hygiene improvement notices

47. (1) If the competent authority has reasonable grounds for believing that any person, who is engaged in any activity or business that is governed by these regulations, is failing to comply with the provisions of these regulations, they may by a notice served on that person—

- (a) state the authority's grounds for believing that the relevant person is failing to comply with these regulations;
- (b) specify the matters which constitute the relevant persons failure to comply;
- (c) specify the measures which, in the authorities opinion, the relevant person must take in order to secure compliance; and
- (d) require the relevant person to take those measures, or measures which are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.

(2) Any person who fails to comply with a hygiene improvement notice shall be guilty of an offence.

Hygiene prohibition orders

48. (1) If —

- (a) a person is convicted of an offence under these Regulations; and
- (b) the court by or before which he is so convicted is satisfied that a health risk condition is fulfilled with regard to an activity or business,

the court shall by an order impose the appropriate prohibition.

(2) A health risk condition is fulfilled with respect to any activity or business if any of the following involves risk of injury to health (including any impairment, whether permanent or temporary), namely —

- (a) the use for the purposes of the activity or business of any process or treatment;
- (b) the construction of any premises used for the purposes of the activity or business, or the use for those purposes of any equipment; and
- (c) the state or condition of any premises or equipment used for the purposes of the activity or business.

(3) The appropriate prohibition is —

- (a) in a case falling within paragraph (a) of subregulation (2), a prohibition on the use of the process or treatment for the purposes of the activity or business;
- (b) in a case falling within paragraph (b) of that subregulation, a prohibition on the use of the premises or equipment for the purposes of the activity or business; and
- (c) in a case falling within paragraph (c) of that subregulation, a prohibition on the use of the premises or equipment for the purposes of any activity or business.

(4) If —

- (a) a person is convicted of an offence under these Regulations; and
- (b) the court by or before which he is so convicted thinks it proper to do so in all the circumstances of the case,

the court may, by an order, impose a prohibition on the relevant person from participating in the management of any activity or business of a class or description specified in the order.

(5) As soon as practicable after the making of an order under subregulation (1) or (4), the competent authority shall—

- (a) serve a copy of the order on the relevant person; and
- (b) in the case of an order made under subregulation (1), affix a copy of the order in a conspicuous position on such premises used for the purposes of the activity or business as they consider appropriate,

and any person who knowingly contravenes such an order shall be guilty of an offence.

(6) A hygiene prohibition order shall cease to have effect —

- (a) in the case of an order made under subregulation (1), on the issue by the competent authority of a certificate to the effect that they are satisfied that the relevant person has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the activity or business; and
- (b) in the case of an order made under subregulation (4), on the giving by the court of a direction to that effect.

(7) The competent authority shall issue a certificate under paragraph (a) of subregulation (6) within three days of their being satisfied as mentioned in that paragraph; and on an application by the relevant person for such a certificate, the authority shall —

- (a) determine, as soon as is reasonably practicable and in any event within 14 days, whether or not they are so satisfied; and
- (b) if they determine that they are not so satisfied, give notice to the relevant person of the reasons for that determination.

(8) The court shall give a direction under paragraph (b) of subregulation (6) if, on an application by the relevant person, the court thinks it proper to do so having regard to all the circumstances of the case, including in particular the conduct of the relevant person since the making of the order; but no such application shall be entertained if it is made —

- (a) within six months of the making of the hygiene prohibition order; or
- (b) within three months of the making by the relevant person of a previous application for such a direction.

Hygiene emergency prohibition notices and orders

49. (1) If the competent authority is satisfied that the health risk condition is fulfilled with respect to any activity or business it may by a notice served on the relevant person impose the appropriate prohibition.

(2) If the court is satisfied, on the application of the competent authority, that the health risk condition is fulfilled with respect to any activity or business, the court shall, by an order, impose the appropriate prohibition.

(3) The competent authority shall not apply for a hygiene emergency prohibition order unless, at least one day before the date of the application, it has served notice on the relevant person of its intention to apply for the order.

(4) Subregulations (2) and (3) of regulation 48 shall apply for the purposes of this regulation as they apply for the purposes of that regulation, but as if the reference in subregulation (2) to risk of injury to health were a reference to imminent risk of injury.

(5) As soon as practicable after the service of a hygiene emergency prohibition notice, the competent authority shall affix a copy of the notice in a conspicuous position on such premises used for the purposes of the activity or business as they consider appropriate; and any person who knowingly contravenes such a notice shall be guilty of an offence.

(6) As soon as practicable after the making of a hygiene emergency prohibition order, the competent authority shall —

- (a) serve a copy of the order on the relevant person; and
- (b) affix a copy of the order in a conspicuous position on such premises used for the purposes of the activity or business as they consider appropriate, and any person who knowingly contravenes such an order shall be guilty of an offence.

(7) A hygiene emergency prohibition notice shall cease to have effect —

- (a) if no application for a hygiene emergency prohibition order is made within the period of three days beginning with the service of the notice, at the end of that period; or
- (b) if such an application is so made, on the determination or abandonment of the application.

(8) A hygiene emergency prohibition notice or a hygiene emergency prohibition order shall cease to have effect on the issue by the competent authority of a certificate to the effect that they are satisfied that the relevant person has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the activity or business.

(9) The competent authority shall issue a certificate under subregulation (8) within three days of their being satisfied as mentioned in that paragraph; and on an application by the relevant person for such a certificate, the authority shall —

- (a) determine as soon as is reasonably practicable and in any event within 14 days whether or not they are so satisfied; and
- (b) if they determine that they are not so satisfied, give notice to the relevant of the reasons for that determination.

(10) Where a hygiene emergency prohibition notice is served on a relevant person, the competent authority shall compensate him in respect of any loss suffered by reason of his complying with the notice unless —

- (a) an application for a hygiene emergency prohibition order is made within the period of three days beginning with the service of the notice; and
- (b) the court declares itself satisfied, on the hearing of the application, that the health risk condition was fulfilled with respect to the activity or business at the time when the notice was served,

and any disputed question as to the right to or the amount of any compensation payable under this paragraph shall be determined by arbitration.

Remedial action notices and detention notices

50. (1) Where it appears to the competent authority that in respect of any premises or establishment used for the purpose of a fish or fish products business—

- (a) any of the requirements of these regulations is being breached; or
- (b) inspection under the regulations is being hampered,

they may, by a notice served on the relevant person or his duly authorised representative—

- (c) prohibit the use of any equipment or any part of the premises specified in the notice;
- (d) impose conditions upon or prohibit the carrying out of any process; or
- (e) require the rate of operation to be reduced to such extent as is specified in the notice, or to be stopped completely.

(2) A remedial action notice shall be served as soon as practicable and shall state why it is being served.

(3) If it is served under subregulation (1)(a), it shall specify the breach and the action needed to remedy it.

(4) The competent authority shall, as soon as they are satisfied that such action has been taken, withdraw the notice by a further notice in writing served on the relevant person or his duly authorised representative.

(5) The competent authority may, at any premises or establishment governed by these regulations, by a notice served on the relevant person or his duly authorised representative require the detention of any fish or fish product for the purposes of examination (including the taking of samples).

(6) The competent authority shall, as soon as they are satisfied that the fish or fish product need no longer be detained, withdraw the notice by a further notice in writing served on the relevant person or his duly authorised representative.

(7) Any person who fails to comply with a remedial action notice or a detention notice shall be guilty of an offence.

Offences due to fault of another person

51. Where the commission by any person of an offence under these regulations is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Defence of due diligence

52. (1) In any proceedings for an offence under these regulations, it shall, subject to subregulation (2), be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(2) If in any case the defence provided by subregulation (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the accused shall not, without leave of the court, be entitled to rely on that defence unless —

- (a) at least seven clear days before the hearing; and
- (b) where he has previously appeared before a court in connection with the alleged offence, within one month of his first such appearance,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Revocation

53. The Fish and Fish Products Marketing Regulations (Legal Notice 2 of 1999) are revoked.

FIRST SCHEDULE*(Section 3(2) Fish and Fish Products Ordinance)***APPLICATION FOR LICENCE**

To: The Chief Secretary

Name of Applicant (Full name in capitals):
Full postal Address:
Telephone Number: Fax: E-mail:
Name of Business:
Location and name of premises where business will be carried on:
State purpose for which licence is applied (whether to cure fish, manufacture fish or fish products):
Specify where product will be sold (<i>for local or export market</i>):
Set out in detail nature of product (including species of fish to be processed):
Add any further information that you consider may be of interest to the Governor in Council in determining this application:

I hereby apply for a licence in respect of the above and I hereby certify the foregoing particulars to be correct and that the premises have been inspected by a competent authority (*a copy of the report of the Authority is attached*):

Signature:

Date:

LICENCE

(Section 3(1) of the Fish and Fish Products Ordinance)

THIS LICENCE is granted to _____ of

carrying on the business of (*state nature of business*):

to (set out nature of licence, e.g., to cure fish, manufacture fish or fish products) (set out species of fish to be cured or manufactured and types of fish products)

at the premises known as:

for the period (state duration of licence):

SUBJECT to the following conditions: (*Insert appropriate conditions*)

SECOND SCHEDULE

PRESCRIBED FEES

1. Application for the grant or renewal of a Licence (non-refundable)—
£20.00
2. For the grant of a Licence—£15.00

C A GEORGE
Clerk of Councils

EXPLANATORY NOTE

(This note is not part of the Regulations)

The basic purpose of these regulations is to revise the composition of the Competent Authority, enhance its powers and set up a more detailed checking system for the manufacture and sale of fish and fish products. For example, Regulation 32 gives more detail to matters regarding chemical checks and sets out the various parameters that must be controlled.

As a part of the Competent Authority's EU accreditation process, the revision of the current Fish and Fish Products (Marketing) Regulations is necessary for the purpose of giving effect to the provisions of a number of European Community Directives. These Directives relate to quality control of fish and fish products that are sold to the EEC.