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Model Legislation for Health and Food Safety in Fisheries and Aquaculture



Annex C of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States

CRFM Secretariat
2017



CARIFORUM

Model Legislation for Health and Food Safety in Fisheries and Aquaculture.

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Prepared by: Global Centre for International Law
Consultants, 20-22 Wenlock Road, London, N1 7GU, United Kingdom. Email:
office@gc-intlaw.org

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CRFM Secretariat,
Belize

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Foreword

This document was produced under the Sanitary and Phytosanitary Measures programme, one component of the 10th EDF Programme titled “*Support to the Caribbean Forum of ACP States in the Implementation of Commitments Undertaken Under the Economic Partnership Agreement (EPA): Sanitary and Phytosanitary Measures (SPS)*”, implemented by the Inter-American Institute for Cooperation on Agriculture (IICA), with the fisheries sub-component being executed by the Caribbean Regional Fisheries Mechanism (CRFM) Secretariat. The project facilitated CARIFORUM States in gaining and improving international market access and maintaining and expanding the trade of fish and fish products locally, regionally and internationally by: (a) building equivalence with EU and other export market Sanitary and Phytosanitary (SPS) measures and (b) helping CARIFORUM states to better develop their own regionally harmonized SPS measures and institutional capability.

Under the fisheries sub-component, two specific actions were undertaken in 2015 and 2016 to develop CARICOM model legislation addressing fisheries SPS matters. These activities were closely connected to parallel actions under the SPS Programme to develop CARICOM model legislation covering food safety and animal and plant health. The instruments of model legislation for fisheries and aquaculture were reviewed and endorsed by stakeholders through two regional validation workshops and follow-up processes during August - October 2015 and December 2016 - January 2017 and subsequently passed to CRFM to facilitate review and endorsement by COTED and other CARICOM bodies.

This publication is one of several related CRFM publications documenting the various consultancy reports and outputs associated with development of the model legislation for the fisheries and aquaculture sub-sectors. The list of related CRFM publications follows:

- CRFM, 2015. Final Technical Report – Technical support to develop model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Technical & Advisory Document*, No. 2015/ 07. 368p.
- CRFM, 2015. Report of Regional Validation Workshop for the Fisheries Component of the 10th EDF funded Sanitary and Phytosanitary Measures Project. *CRFM Technical & Advisory Document* No. 2015 /08. 111p.
- CRFM, 2017. Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Technical & Advisory Document*, No. 2017 / 03.
- CRFM, 2017. Model Legislation for Health and Food Safety in fisheries and aquaculture. Annex C of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Special Publication*, No. 19. 143p.
- CRFM, 2017. National Consultation Strategy and Package. Annex D of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Special Publication*, No. 20. 39p.
- CRFM, 2017. Regional Consultation Strategy and Package. Annex E of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Special Publication*, No. 21. 36p.

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AQUATIC ANIMALS AND AQUATIC
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AQUATIC ANIMALS AND AQUATIC PRODUCTS HYGIENE BILL

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AQUATIC ANIMALS AND AQUATIC PRODUCTS HYGIENE BILL

AN ACT to ensure food hygiene, animal health and plant health with respect to aquatic animals and aquatic animal products, including by-products, within, to and from [insert name of State] in order to ensure food safety and to prevent the introduction and spread of notifiable aquatic animal and plant diseases within [insert name of State] and other countries; and for other incidental matters.

Part 1 Preliminary

1 Short title and commencement

- (1) This Act may be cited as the Aquatic Animals and Aquatic Products Hygiene Act, [date].
- (2) This Act shall come into force on [date].

2 Interpretation

In this Act, unless the context otherwise requires—

“advisory committee” means the body established by section 6(1);

“agricultural health” means animal health and plant health;

“agricultural health and food safety legislation” means a “relevant Act” as defined in section 4(4) and any regulations made under a relevant Act;

“animal” has the meaning in [cross-refer to national animal health legislation; the equivalent definition in the CARICOM Model Animal Health Bill is s. 2];

“aquaculture” has the meaning in [cross-refer to national fisheries legislation¹];

“aquaculture establishment” means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to the rearing, keeping, cultivation or processing of aquaculture animals;

“aquatic animal” means an animal that inhabits, permanently or intermittently, an aquatic environment, whether at sea, inland or through aquaculture;

“aquatic plant” means a plant that grows in an aquatic environment, whether at sea, inland or through aquaculture;

“aquatic product” includes aquatic plants and products derived from aquatic animals, and includes by-products;

“authorised officer” means a person designated under section 32;

“certificate”, “licence” and “permit” mean a certificate, licence or permit, as the case may be, granted pursuant to this Act;

“competent authority” means the—

- (a) [Food Safety Service] is the competent authority with respect to food safety matters;
- (b) [Veterinary Authority] is the competent authority with respect to animal health matters;
- (c) [National Plant Protection Organisation] is the competent authority with respect to plant health matters;

“designated laboratory” means a laboratory or other facility designated under—

- (d) [insert national equivalent to section 12(1) of the CARICOM Model Food Safety Bill],
- (e) [insert national equivalent to section 6(1) of the CARICOM Model Animal Health Bill], or
- (f) [insert national equivalent to section 8 of the CARICOM Model Plant Protection Bill];

“Director of the Fisheries Department” or “Director” means the person appointed under [refer to national fisheries legislation];

“establishment” means any business, undertaking or activity undertaken on any premises, other than a fishing vessel, which is concerned with the production, harvesting, processing, handling, storage and transport of fishery products;

“export certificate” means—

- (a) an export certificate issued pursuant to [insert national equivalent to section 41 of the CARICOM Model Food Safety Bill],
- (b) an international veterinary certificate issued pursuant to [insert national equivalent to section 32 of the CARICOM Model Animal Health Bill], or

¹ It is noted that some countries do not have a definition of “aquaculture” in national fisheries legislation. The following definition may be used: “aquaculture” means the rearing or cultivation of aquatic organisms using techniques designed to increase the production of those organisms beyond the natural capacity of the environment and where the organisms remain the property of one or more natural or legal persons throughout the rearing or culture stages, up to and including harvesting.

- (c) a phytosanitary certificate for export issued pursuant to [insert national equivalent to section 20 of the CARICOM Model Plant Protection Bill];
- “fisheries” includes harvesting of aquatic plants;
- “Fisheries Department” or “Department” [cross-refer to national fisheries legislation];
- “fishery products” includes aquaculture, freshwater products, marine products and their by- products;
- “fishing vessel” and “vessel” [cross-refer to national fisheries legislation];
- “food” has the meaning in [cross-refer to national food safety legislation; the equivalent definition in the CARICOM Model Food Safety Bill is s. 2];
- “food handler” has the meaning in [cross-refer to national food safety legislation; the equivalent definition in the CARICOM Model Food Safety Bill is s. 2];
- “Food Safety Service” [cross-refer to national food safety legislation; the equivalent definition in the CARICOM Model Food Safety Bill is s. 5(1)];
- “food traceability system” means the food traceability system established pursuant to [refer to national food safety legislation; the equivalent definition in the CARICOM Model Food Safety Bill is s. 17(1)];
- “Minister” means the Minister responsible for fisheries and aquaculture;
- “National Plant Protection Organisation” [cross-refer to national plant health legislation; the equivalent definition in the CARICOM Model Plant Protection Bill is s. 4(1)];
- “plant” has the meaning in [cross-refer to national plant health legislation; the equivalent definition in the CARICOM Model Plant Protection Bill is s. 2];
- “prescribed fishing vessel” means a fishing vessel which has been prescribed, or falls within a type or category that has been prescribed, pursuant to section 12;
- “Protocol” means a set of rules, conditions, standards or guidelines—
- (a) which may incorporate in whole or in part any rule, condition, standard or guideline approved by a public international, regional or national body or may be developed specifically for the purpose of this Act; and
- (b) with which compliance is intended to be mandatory;
- “Sanitary and Phytosanitary Appeal Tribunal” [cross-refer to the national legislation that establishes this];
- “vehicle” means any vessel, aircraft, train, conveyance, cart, container, animal or other thing on land or at sea that can transport animals, animal products or commodities from one place to another;
- “Veterinary Authority” [cross-refer to national animal health legislation; the equivalent definition in the CARICOM Model Animal Health Bill is s. 4(1)].

3 Application

- (1) This Act is without prejudice to, and applies in addition to, the following acts—
- (a) [Food Safety Act];
- (b) [Animal Health Act]; and
- (c) [Plant Protection Act].
- (2) Subject to subsection (1), this Act applies to any aquatic animal or aquatic products and their by-products, from fisheries or aquaculture, whether inland or marine, [intended for human consumption] [and intended for export].
- (3) The Act applies to the safety and health of aquatic animals and aquatic products at all stages in the food chain including—
- (a) production;

- (b) processing, manufacturing or other preparation;
 - (c) handling, sale and distribution;
 - (d) import, transit and export;
 - (e) transport, packaging and storage;
 - (f) any other activity related to the activities mentioned in paragraphs (a) to (e)
- whether the animal or product is prepared or processed in a permanent or temporary structure and whether on land, air or at sea.

Part 2 Competent Authorities and Administration

4 Competent authorities

- (1) Each competent authority referred to in subsection (1) shall, with the consent of the relevant Ministers, enter into a memorandum of understanding with the Fisheries Department that authorises and enables the Department for the purposes of a relevant Act—
 - (a) to act on its behalf in respect of any duties or functions assigned to it under that Act or regulations under it with respect to aquatic animals, aquatic products or fishing vessels;
 - (b) to provide persons who can act as authorised officers, subject to being so-designated as authorised officers under that Act; and
 - (c) to provide technical assistance to, or otherwise cooperate with, the competent authority.
- (2) For the purposes of subsection (2)(a) or (b), any authority provided pursuant to subsection (2) shall only be to such extent and on such terms as must be specified in the memorandum of understanding.
- (3) In this section, “relevant Ministers” means—
 - (a) the Minister; and
 - (b) as the case may be, the Minister (not being the Minister responsible for this Act) referred to in—
 - (i) section 2 of the [Food Safety Act];
 - (ii) section 2 of the [Animal Health Act];
 - (iii) section 2 of the [Plant Protection Act].
- (4) In this section, “relevant Act” means—
 - (a) this Act; and
 - (b) as the case may be—
 - (i) the [Food Safety Act];
 - (ii) the [Animal Health Act];
 - (iii) the [Plant Protection Act].

5 Minister

- (1) The Minister shall have primary responsibility for the administration of this Act.
- (2) The Minister shall—
 - (a) designate ports of entry and exit for the import and export of aquatic animals and aquatic products;
 - (b) approve regulations under this Act; and

- (c) carry out other tasks, as prescribed by this Act.

6 Fisheries Department

- (1) The Fisheries Department shall encourage appropriate and effective coordination with competent authorities with respect to agricultural health and food safety concerning aquatic animals and aquatic products.
- (2) The Fisheries Department may, in consultation with the relevant competent authority—
 - (a) develop policies and programmes to safeguard—
 - (i) the public health of consumers of aquatic animals and aquatic products;
 - (ii) agricultural health related to aquatic animals and aquatic plants;
 - (b) provide appropriate training programmes relating to all aspects of the production, harvesting, processing, handling, storage and transport of aquatic animals and aquatic products;
 - (c) promote public awareness and understanding of issues related to the production, harvesting, processing, handling, storage and transport of aquatic animals and aquatic products;
 - (d) monitor activities pertaining to the export of aquatic animals and aquatic products to ensure compliance with the provisions of this Act and any regulations made under it;
 - (e) take such action as may be necessary, including suspension or revocation of any licence or certificate, in order to ensure compliance with the provisions of this Act and any regulations made under it;
 - (f) perform such other functions pertaining to production, trade, marketing, transport, import and export of aquatic animals and aquatic products as may be assigned to it, from time to time—
 - (i) in accordance with a memorandum of understanding entered into under subsection 4(1); or
 - (ii) by the Minister.

7 Advisory Committee

- (1) There is hereby established an advisory committee which shall operate in accordance with the Statutes set out in the Schedule.
- (2) The functions of the advisory committee shall include—
 - (a) to advise the Fisheries Department and each competent authority on general policy relating to the export of aquatic animals and aquatic products or any other matters in respect of which advice is sought by the Department or a competent authority;
 - (b) to identify necessary research which, in its opinion, is relevant to furthering the implementation of this Act, and seeking means to facilitate such research;
 - (c) to prepare and submit to each competent authority, annual reports regarding the export of aquatic animals and aquatic products;
 - (d) to perform such other functions pertaining to the export of aquatic animals and aquatic products as may be assigned to it from time to time by the Minister; and
 - (e) to liaise and cooperate with other advisory bodies concerned with food safety and agricultural health in order to avoid duplication of effort and to facilitate consistency of advice.
- (3) The advisory committee shall make recommendations to the Minister—

- (a) in respect of regulations that may be required to implement this Act or other agricultural health and food safety legislation;
 - (b) in respect of the development, adoption or implementation of codes of practice, standards or protocols;
 - (c) relating to the export of aquatic animals and aquatic products.
- (4) In the exercise of its functions under this Act the advisory committee may—
- (a) request the attendance of other persons for the purposes of enquiry; and
 - (b) require the production of documents.

8 Coordination between public authorities

- (1) Each competent authority and the Fisheries Department shall consider appropriate methods of coordination amongst themselves and with other public authorities concerned in the implementation of this Act.
- (2) The methods referred to in paragraph (1) may include, with the consent of any of the cooperating authorities, joint agreements or joint administrative procedures.

Part 3 Agricultural Health and Food Safety Standards for Aquatic Animals and Aquatic Animal Products

9 Application of food safety and animal and plant health legislation

- (1) Subject to subsection (2), no person shall operate a food business, aquaculture establishment or other business or premises involving the production, transport, handling, trade, import or export of aquatic animals and aquatic products unless that person—
 - (a) holds a licence, permit or other authorisation that is required for an activity referred to in this subsection under any other agricultural health and food safety legislation; and
 - (b) meets the requirements of this Act and any regulations made under it.
- (2) No person shall use a vessel for fishing or for transporting fish unless the vessel—
 - (a) is licensed pursuant to this Act; and
 - (b) meets the applicable requirements of this Act and any regulations made under it.

10 Codes of practice, standards and protocols

- (1) The Fisheries Department may, in consultation with the relevant competent authority—
 - (a) develop or commission the development of codes of practice, standards or protocols; or
 - (b) adopt codes of practice, standards or protocols prepared by other organisations or persons for the purpose of facilitating the implementation of and promoting compliance with this and other agricultural health and food safety legislation in relation to aquatic animals and aquatic products.
- (2) When developing, commissioning or adopting a code of practice, standard or protocol under paragraph (1), the Fisheries Department and the relevant competent authority shall have regard to any generally accepted international practice and standards.
- (3) The Minister may approve a code of practice, standard or protocol by—
 - (a) notice in the Gazette; and

- (b) publishing with that notice (either in the notice or by reference to publication elsewhere) the code of practice, standard or protocol being approved.
- (4) The Fisheries Department or the relevant competent authority may, within an approved code of practice, standard or protocol or otherwise, determine procedures for certification, monitoring and auditing in respect of particular activities and classes of activity designed to ensure that the code of practice, standard or protocol is adequately applied.
- (5) The relevant competent authority may make compliance, or evidence of ability to comply, with any approved code of practice, standard or protocol, or any part of such—
 - (a) a pre-condition for the granting of any licence under a relevant Act;
 - (b) a condition of a licence granted or modified under a relevant Act;
 - (c) a condition of a compliance notice served under a relevant Act; or
 - (d) the applicable standard or requirement for complying with a provision of a relevant Act.

11 Aquatic animal health professionals

- (1) Aquatic animal health professionals may undertake activities assigned to veterinarians pursuant to this Act, the Animal Health Act or regulations made under either Act in relation to aquatic animals provided that they are authorised to do so by the Chief Veterinary Officer.
- (2) Veterinarians and aquatic animal health professionals shall maintain and develop their professional capacities related to their areas of activities which fall within the scope of this Act.

Part 4 Licensing of Fishing Vessels

12 Prescribed fishing vessels

- (1) The Minister, in consultation with the Minister responsible for food safety, may prescribe in regulations fishing vessels which require a licence under this Part.
- (2) The fishing vessels prescribed under subsection (1) may refer to—
 - (a) particular types or classes of fishing vessel;
 - (b) particular fisheries or fishing areas;
 - (c) particular types or classes of licence;
 - (d) fishing for particular purposes, including export.

13 Requirement for licence

- (1) No person shall operate, or cause or permit another person to operate, a prescribed fishing vessel, unless—
 - (a) the fishing vessel is licensed in accordance with prescribed procedures;
 - (b) the fishing vessel is operated in accordance with the licence.
- (2) The competent authority shall not license a vessel for the harvesting, handling or processing of prescribed products unless that vessel has crew members duly certified under the [national health and/or food safety legislation].

14 Application for licence

- (1) Any person who wishes to operate a prescribed fishing vessel shall apply to the Fisheries Department for a licence to operate the vessel, in such form and manner as may be prescribed in regulations.

- (2) The application in subsection (1) shall be accompanied by such information or supporting documents that may be prescribed and shall be submitted together with the prescribed fee.

15 Grant of licence

- (1) The Fisheries Department [or Food Safety Service] shall carry out an inspection of the fishing vessel indicated in the application, and shall evaluate the application on the basis of the criteria established in regulations.
- (2) Where the Fisheries Department [or Food Safety Service] is satisfied that prescribed requirements for a fishing vessel are met, the Fisheries Department [or Food Safety Service] shall grant to the applicant a licence, subject to such terms and conditions as the Fisheries Department [or Food Safety Service] may impose.
- (3) Where the Fisheries Department [or Food Safety Service] considers that prescribed requirements for a food business are not met, the Fisheries Department [or Food Safety Service] shall deny the applicant the licence and provide the reasons in writing.
- (4) As a condition of any licence, the Fisheries Department [or Food Safety Service] may include requirements for mandatory training and other continuing development activities.

16 Suspension and revocation of licences

- (1) The Fisheries Department, either on its own initiative or on the recommendation of a competent authority, may suspend or revoke a licence where he or she is satisfied that—
 - (a) the licensee has a history of repeated non-compliance with agricultural health or food safety legislation, including non-compliance with any licence requirements or conditions; and
 - (b) it is in the public interest to do so.
- (2) Where the Fisheries Department proposes to suspend or revoke a licence, the Fisheries Department shall give the holder of the licence at least 28 days' written notice of—
 - (a) its intention to do so;
 - (b) the terms of the suspension or revocation, as the case may be; and
 - (c) the grounds upon which the suspension or revocation is proposed to be made,and before taking the action proposed the Fisheries Department shall consider any representations made by the holder of the licence before the expiration of the notice.
- (3) Notwithstanding subsection (2), the Fisheries Department shall take immediate action to suspend or revoke a licence where the risk to public health requires immediate action.

17 Rights of appeal in respect of licences, etc.

- (1) In respect of a licence or other authorisation that may be granted to a person pursuant to this Act, that person may appeal against any decision by the Fisheries Department to—
 - (a) refuse to grant or renew a licence or other authorisation;
 - (b) refuse to accept a licence or other authorisation;
 - (c) require the modification of any licence or other authorisation; or
 - (d) revoke a licence or other authorisation.
- (2) An appeal under this section shall be made to the Minister, within 21 days after the person receives notice in writing of the decision appealed against, and the Minister may confirm, reverse or vary the decision against which the appeal is brought.

- (3) An appeal to the court may be made under this section against the decision of the Minister under subsection (2), or against a failure to make such a decision, and such appeal shall be brought within 6 months after the person receives notice in writing of the decision appealed against or within such further time as the court may allow.
- (4) On hearing the appeal, the court may—
 - (a) confirm, reverse or vary the decision against which the appeal is brought; and
 - (b) may make such an order as to the costs of the appeal that it thinks fit.

18 Public register of licensed vessels

- (1) The Fisheries Department shall—
 - (a) establish and maintain a register of fishing vessels licensed under this Part;
 - (b) assign to each fishing vessel operator a food business identification number as determined by the Food Safety Service;
 - (c) conduct informational or training sessions on the requirements under the traceability system for capacity building for fishing vessel operators, regulatory officials and the public; and
 - (d) issue supplementary record keeping requirements for fishing vessel operators for ensuring the effectiveness of the food traceability system.
- (2) The Fisheries Department shall—
 - (a) make the register available for inspection by the public free of charge at all reasonable times and at such place as may be determined by the Fisheries Department; and
 - (b) afford members of the public reasonable facilities for obtaining from the competent authority, on payment of reasonable charges, a copy of any entry in the register.

19 General obligations of fishing vessel operators

- (1) A fishing vessel operator shall have primary responsibility for ensuring compliance with agricultural health and food safety legislation on the licensed fishing vessel.
- (2) A fishing vessel operator shall, in accordance with all applicable food safety rules—
 - (a) clearly identify the activities which are critical to the safety of food present on the vessel; and
 - (b) ensure that appropriate food safety procedures are identified, implemented, maintained and reviewed by—
 - (i) analysing the potential food hazards in the operations of the fishing vessel;
 - (ii) identifying the points in those operations where food hazards may occur;
 - (iii) determining the points which are critical to ensuring food safety;
 - (iv) implementing effective control and monitoring procedures at those critical points; and
 - (v) reviewing the analysis of food hazards, the critical points and the control and monitoring procedures periodically, and whenever the operations of the fishing vessel change.
- (3) In respect of any food handler in their employment, a fishing vessel operator shall—
 - (a) ensure that the person has received a food handler's certificate in accordance with section 32 of the Food Safety Act;

- (b) ensure that the food handler is appropriately supervised and instructed commensurate with their work activities; and
 - (c) ensure the health status of the food handler does not pose a risk to the safety of food.
- (4) A fishing vessel operator shall allow access to premises and records by authorised officers lawfully carrying out their duties in connection with this Act.
- (5) A fishing vessel operator shall keep records of the business operations under this Act and make available to the Fisheries Department and Food Safety Service, the prescribed information and records for inspection.

Part 5 Import, Export and Transit

20 Notification of imports

- (1) A customs officer shall—
- (a) notify the Fisheries Department of the arrival of any aquatic animal or aquatic product in such time and manner as shall be prescribed; and
 - (b) retain any item at the request of the Fisheries Department for inspection or in order to take a sample.
- (2) Where the Fisheries Department has made a request to retain any item under subsection (1), the relevant competent authority shall not in relation to that item provide—
- (i) authorisation for its release under section 38 of the [Food Safety Act];
 - (ii) authorisation for its release or disposal under section 29 of the [Animal Health Act];
or
 - (iii) written notice authorising its release under section 16 of the [Plant Protection Act],
- until the Fisheries Department has released the item for clearance under section 21.

21 Import and export inspections

- (1) A decision made by the Fisheries Department to collect a sample or to inspect any aquatic animal or aquatic product that is to be imported or exported shall be based on the basis of risk and shall be based on—
- (a) the nature of the items being imported or exported;
 - (b) the past history of the commodity or the importer or exporter.
- (2) Where the Fisheries Department determines that an inspection of the aquatic animal or aquatic product is required, the aquatic animal or aquatic product shall not be released pending a physical inspection, and where necessary, the collection of a sample for analysis.
- (3) The containers, packaging material, labelling and ingredients, as the case may be, of an aquatic animal or aquatic product may also be subject to sampling and inspection.
- (4) Where the Fisheries Department is satisfied that the aquatic animal or aquatic product—
- (a) complies with the requirements of applicable agricultural health or food safety legislation, the Department shall authorise the release of the consignment and shall submit a written notice to the [*Customs authority*] and the importer to that effect;
 - (b) does not comply with the requirements of applicable agricultural health or food safety legislation, the Department shall—
 - (i) detain the consignment and issue a written notice of detention to the [*Customs authority*] and to the importer; or

- (ii) issue a written notice ordering the immediate destruction of the aquatic animal or aquatic product.

22 Cancellation of export licence and export health certificate

- (1) Where an authorised officer has reasonable grounds to believe that after the grant of an export certificate relating to any aquatic animal or aquatic product (in this section “certified items”) but prior to export—
 - (a) there is non-compliance with any applicable agricultural health or food safety legislation; or
 - (b) the condition of the certified items has deteriorated or materially changed,he shall inspect the certified items and detain them if he reasonably suspects that the certified items do not comply with the requirements of applicable agricultural health or food safety legislation.
- (2) Where certified items are detained under subsection (1)—
 - (a) the authorised officer shall inform the relevant competent authority which shall immediately notify the operator in writing stating that the export certificate is cancelled and the reasons for that cancellation; and
 - (b) the operator shall not export the certified items.

23 Recall of exported products

- (1) Paragraph (2) shall apply in any case where, after export of any aquatic animal or aquatic product, the Fisheries Department—
 - (a) becomes aware that an application for an export certificate contains or is based on false or misleading representation or on information which is false in a material particular;
 - (b) becomes aware that an administrative error has occurred in relation to an export certificate and it is necessary to correct that error;
 - (c) becomes aware that an operator has failed to comply with the provisions of this Act or regulations; or
 - (d) otherwise believes that any exported aquatic animal or aquatic product pose a danger to public, animal or plant health.
- (2) The Fisheries Department—
 - (a) may, as it thinks necessary, suspend for such period as it thinks fit, or withdraw, the export certificate;
 - (b) on the suspension or withdrawal of the export certificate, shall immediately notify the operator in writing that the export certificate is withdrawn or suspended and the reasons for it; and
 - (c) may take such steps as it deems necessary to recall the exported products or to prevent the acceptance of the exported products by the importing country.

24 Demarcation of approved production areas

- (1) The Fisheries Department may demarcate and approve areas of fisheries waters or inland water as a production area from which aquatic animals may be harvested for export.
- (2) For the purposes of subsection (1), the [Food Safety Service] shall establish the testing procedures, based on internationally recognised procedures, to be used in determining whether the waters of production areas should be approved.

- (3) The Minister shall prescribe criteria, including limits on the quantities of noxious or other substances, relating to the health of the waters of production areas, according to which such waters may be approved under subsection (1).

25 Designated landing sites

- (1) The Minister may by Notice published in the Gazette designate a port, landing site or other place (in this Act, “designated landing site”) in accordance with this section and may specify certain requirements (“designated landing site requirements”) concerning the landing of fish at that site.
- (2) The requirements referred to in subsection (1) may include requirements—
- (a) that certain fish be landed at the designated landing site;
 - (b) that certain fish be landed at the designated landing site at specified times, with an appointed person present;
 - (c) that certain categories of fishing vessel, licence holder or fisher land fish, or certain fish, at the designated landing site;
 - (d) that any owners, operators, or masters of vessels, or any permit holders, or any of them, notify appointed persons of the intention to land fish; or
 - (e) concerning the manner of landing, the information provided on the catch being landed, including the provision of any catch log or declaration, by any person, and the manner of any inspection or examination by an authorised officer.
- (3) Any person carrying out an activity to which designated landing site requirements apply shall comply with those requirements.

26 Food for personal consumption

Any person bringing into [*insert country name*] any aquatic animal or aquatic product as food for personal consumption not exceeding a prescribed amount, and not for sale, shall be exempt from the requirements of this Part.

Part 6 Inspection and Monitoring

27 Inspection system

An authorised officer shall, upon completion of any inspection under this Act, make a report in writing of the assessment to any competent authority that will have an interest or concern in that assessment.

28 Inspection of aquatic animals and aquatic products

- (1) An authorised officer shall ensure, subject to the specific requirements of any enactment, that—
- (a) only live aquatic animals are harvested;
 - (b) licensed vessels are offloaded at designated landing sites;
 - (c) aquatic animals and aquatic products are properly placed in batches and that sampling is carried out as required;
 - (d) an operator has in relation to aquatic animals and aquatic products valid certificates and authorisations concerning production, transport, import, export or other matter, and has affixed correct identification codes on the batches;
 - (e) harvesting, handling and processing activities are properly carried out;
 - (f) animal welfare requirements are met;

- (g) an operator implements systems to ensure proper monitoring of all activities carried out in a licensed processing establishment or licensed vessel.
- (2) An authorised officer shall on the directive of the relevant competent authority, carry out inspections of licensed establishments and licensed vessels.
- (3) An inspection under this Act shall be carried out in accordance with internationally accepted procedures.

29 Inspection of fishing vessel at sea

The Fisheries Department or relevant competent authority may cause an inspection and audit of licensed vessels, which harvest, handle or process aquatic animals or aquatic products for export, to be carried out during operations at sea, at such time as the competent authority may determine and the operator of any such vessel shall not prevent the carrying out of such inspection and audit.

30 Inspection in port

- (1) The Fisheries Department or relevant competent authority may request an operator of a licensed vessel to make that vessel available for inspection and audit at a specified port, within the time specified.
- (2) Where the operator of a licensed vessel is unable to make the vessel available for inspection under paragraph (1) he shall, within forty-eight hours before the inspection and audit, so notify the Fisheries Department or relevant competent authority, as the case may be.
- (3) The Fisheries Department or relevant competent authority, as the case may be, shall notify the operator of the new place or time for inspection where the competent authority is notified under subsection (2).
- (4) Aquatic animals or aquatic products which are harvested, handled or processed on board a licensed vessel, shall not be sent to a licensed processing establishment or entered for export or exported, between the date of the request and the date the licensed vessel is presented for inspection at the specified port.

31 Re-inspection

Where an authorised officer has reasonable grounds to believe that aquatic animals or aquatic products have deteriorated after the date on which they were inspected or that they otherwise fail to meet the requirements of this Act, he may again inspect such aquatic animals or aquatic products.

Part 7 Authorised Officers

32 Designation of authorised officers

- (1) The following are authorised officers for the purposes of this Act—
 - (a) food inspectors, regarding any matter relating to or appearing to relate to food safety;
 - (b) veterinary inspectors, regarding any matter relating to or appearing to relate to animal health;
 - (c) phytosanitary inspectors, regarding any matter relating to or appearing to relate to plant health; and
 - (d) any other person designated under subsection (2).

- (2) The Minister may, from time to time, designate as authorised officers for the purposes of this Act, public officers or other persons who, by training and experience, are, in his opinion, qualified to be so designated.
- (3) The designation of any person under subsection (2) shall be published in the Gazette.
- (4) An authorised officer shall, in the execution of his duties under this Act, have, exercise and enjoy all the powers, authority, privileges and immunities [national provision].

33 Functions of authorised officers

- (1) The functions of an authorised officer are—
 - (a) to inspect processing establishments or prescribed fishing vessels in order to—
 - (i) ensure compliance with provisions of this Act or any Regulations under it or any condition subject to which a licence is granted;
 - (ii) examine the premises, facilities, equipment and staff in order to determine whether they comply with the requirements of the [Public Health Act] and this Act or any Regulations under it with respect to standards of sanitation and hygiene;
 - (iii) verify whether aquatic animals, aquatic products or their by-products and any equipment, material or other item used or found in any processing establishment or prescribed fishing vessel are handled and treated correctly;
 - (iv) ensure the correct application and functioning of purification and conditioning systems;
 - (v) monitor the use of health marks;
 - (vi) determine the suitability of any processing establishment or prescribed fishing vessel for the processing of aquatic animals, aquatic products or their by-products to be granted a licence and an operating certificate under this Act;
 - (b) to monitor the relay and production areas of aquatic animals or aquatic products for the purposes of—
 - (i) controlling any malpractice with regard to the origin and destination of aquatic animals, aquatic products or their by-products;
 - (ii) determining the microbiological quality of live aquatic animals and aquatic products in relation to such areas;
 - (iii) detecting the presence of toxin-producing plankton, biotoxins and chemical contaminants in aquatic animals, aquatic products or their by-products;
 - (c) to monitor the implementation of any plans or schemes established by the competent authority;
 - (d) to examine any aquatic animal, aquatic product or its by-product;
 - (e) to certify for export, any such aquatic animals, aquatic products or their by-products;
 - (f) to take samples of any aquatic animal, aquatic product or its by-product or any other article, from any place within a licensed processing establishment or licensed vessel in order to determine whether proper sanitary conditions are being maintained;
 - (g) to inspect any container or vehicle which is used or intended to be used for the storage or transportation of aquatic animals, aquatic products or their by-products;
 - (h) to open and examine any container or vehicle or other storage device at licensed processing establishments or on licensed vessels which is reasonably believed to contain any aquatic animal, aquatic product or its by-product;
 - (i) to tag—

- (i) any aquatic animals, aquatic products or their by-products and any container or package in which they are stored, which contravene or which the authorised officer believes to contravene the requirements of this Act; and
- (ii) any equipment which is not in use or should not be used;
- (j) to give directives to the owner, agent or person in charge of any container, vehicle, aircraft, boat or vessel which is used or intended to be used in the storage or transportation of aquatic animals, aquatic products or their by-products;
- (k) to examine and, where necessary, make copies of or take extracts from any records and documents in relation to any aquatic animals, aquatic products or their by-products which consignors are required to keep pursuant to this Act.

34 Powers of authorised officers

- (1) An authorised officer in pursuance of any functions under this Act, may exercise—
 - (a) the powers as set out in sections 43 to 45 of the [Food Safety Act], as if references to that Act were references to this Act, in relation to any food safety matter;
 - (b) the powers as set out in sections 43 to 45 of the [Animal Health Act], as if references to that Act were references to this Act, in relation to any animal health matter;
 - (c) the powers as set out in sections 36 to 38 of the [Plant Protection Act], as if references to that Act were references to this Act, in relation to any plant health matter.
- (2) Prior to exercising any powers under subsection (1), an authorised officer shall state which of the powers in that subsection are to be used.

35 Additional powers in respect of fishing vessels

If an authorised officer suspects on reasonable grounds that there may be on or in a fishing vessel evidence that an offence under this Act has been, is being, or is about to be, committed, he may, at any reasonable time, take any or all of the following actions—

- (a) stop and detain the fishing vessel;
- (b) request a person on the fishing vessel to provide to any authorised officer the assistance that he may reasonably require in the exercise of any of the powers of an authorised officer;
- (c) direct the master of the fishing vessel to proceed to port;
- (d) exercise on or in the fishing vessel any of the powers of an authorised officer.
- (2) The operator, master, and each crew member of any fishing vessel shall immediately comply with every instruction or direction given by an authorised officer and facilitate safe boarding, entry and inspection of the vessel and any fishing gear, equipment, records, aquatic animals and aquatic products.
- (3) The operator, master, and each crew member of a vessel shall ensure the safety of an authorised officer or observer as appropriate in the performance of his duties.

36 Persons to assist authorised officer

- (1) An authorised officer exercising any of the powers conferred on him under this Act or Regulations under this Act may do so with the aid of such assistants as he considers necessary for the purpose.

- (2) Any person called upon to assist an authorised officer in the exercise of any of the powers conferred on that person under this Act or Regulations under this Act is authorised to render such assistance.

37 Immunity of authorised officers

No action shall be brought against any authorised officer in respect of anything done or omitted to be done by him in good faith in the execution of his powers and duties under this Act.

Part 8 Prosecutions and Sanctions

38 Offences and general penalty

- (1) Every person who acts in contravention of or fails to comply with any provision under this Act, or any notice, direction, restriction, requirement, or condition given, made, or imposed under this Act other than a requirement to pay a sum of money, commits an offence.
- (2) Every person who commits an offence against this Act for which no other penalty is prescribed shall be liable on conviction to a fine of not more than \$5,000 and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day after the first day on which the offence has continued.
- (3) The Minister shall keep the level of fines specified in this Act under review, with the objective of ensuring that fines remain an appropriate deterrent to offending, and may amend the fines specified in this Act by means of Regulations made under this subsection.
- (4) Nothing in subsection (1) shall apply to any person carrying out any duties or responsibilities imposed or required under this Act while acting in the capacity of an employee, agent or representative of the State.
- (5) Any person who—
- (a) without reasonable cause, fails to give an authorised officer or any person acting on behalf of the competent authority any assistance or information which that person may reasonably require of him in connection with such matters; or
 - (b) in purported compliance with any such requirement as is mentioned in sub-paragraph (a), or for the purpose of procuring a licence under this Act, intentionally or recklessly furnishes information which is false or misleading in a material particular, or intentionally fails to disclose any material information,

shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding [penalties to be specified by Member State].

- (6) Any person who obstructs, assaults, threatens with violence, bribes or attempts to bribe or otherwise interferes with an authorised officer in the exercise of the powers conferred on him under this Act, or attempts to prevent him from executing his duties, is guilty of an offence and, without prejudice to any fine, period of imprisonment or other sanction that may arise under any other law for the actions in question, shall be liable upon conviction under this Act to a fine not less than [penalties to be specified by Member State].

39 Administrative penalty

- (1) The Fisheries Department may suspend or revoke any licence or other authorisation issued by it under this Act or issue any other administrative penalty in accordance with this Act.
- (2) Where the Fisheries Department has grounds for suspending or revoking a licence or other authorisation issued under this Act, an authorised officer shall issue a written notice to the owner

of the food or food premises, providing the reasons for the decision, and may include is the notice the obligation to pay a fine not exceeding [*insert national penalty*].

- (3) In cases of serious or repeated violations of this Act, a licence or other authorisation issued by the Fisheries Department, the Fisheries Department shall recommend to the [*insert name of relevant body*] the revocation of the business operating licence issued pursuant to [*insert reference to business registration legislation*].
- (4) Upon receipt of such recommendation to revoke the business operating licence, the [*insert name of relevant body*] shall suspend or revoke the business operating licence within seven days.

40 Fixed penalty notices for prescribed offences

- (1) This section applies to any offence as may be prescribed by regulation as a fixed penalty offence.
- (2) Where on any occasion an authorised officer finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may give to that person a fixed penalty notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (3) Where a person is given a fixed penalty notice in respect of a fixed penalty offence—
 - (a) no proceedings shall be instituted for that offence before the expiration of the period for paying the fixed penalty; and
 - (b) he shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (4) A fixed penalty notice shall—
 - (a) be in the prescribed form;
 - (b) give such reasonable particulars of the circumstances alleged to constitute the offence to which the notice relates; and
 - (c) state—
 - (i) the amount of the fixed penalty, which shall not exceed twenty per cent of the maximum amount of any fine or fines that are specified under this Act in respect of the offences to which the fixed penalty notice relates;
 - (ii) the period for paying the fixed penalty, which shall not exceed twenty-one days upon receipt of the fixed penalty notice;
 - (iii) the person to whom and the address at which—
 - (A) the fixed penalty may be paid,
 - (B) any correspondence relating to the fixed penalty notice maybe sent;
 - (C) the method or methods by which payment may be made; and
 - (D) the consequences of not making a payment within the period for paying the fixed penalty.
- (5) The Director of the Fisheries Department may extend the period for paying the fixed penalty in any particular case if he or she considers it appropriate to do so by sending notice, in writing, to the person to whom the fixed penalty notice was given.
- (6) The admission of guilt and the fixed penalty paid under this section shall be dealt with by the magistrate in the same manner as adjudication in court of an offence punishable on summary conviction and for which no conviction is recorded.
- (7) For the purpose of this Act a fixed penalty offence is any offence for which the maximum penalty, excluding any additional fines if the offence is a continuing one, is a fine that does not exceed [*specify national level*].

41 Procedure for offences

- (1) Where an authorised officer reasonably believes that a person has contravened any of the provisions of this Act, he or she shall provide such information to the Director of the Fisheries Department.
- (2) The Director of the Fisheries Department shall determine whether the matter shall be forwarded to *[law enforcement/police]* or whether an administrative penalty is applicable by the Fisheries Department.
- (3) Where a matter has been forwarded to the police in accordance to subsection (2), *[the Police]* shall carry out an investigation and shall issue a summons ordering the person accused of contravening the Act to appear before a magistrate in accordance with the *[insert relevant national legislation]*.

42 Forfeiture

- (1) Where a person is convicted of an offence under this Act the court may, on its own motion or at the request of any party to the proceedings, in addition to any penalty imposed, order that any aquatic animal, aquatic product or other thing by means of or in relation to which the offence was committed or any proceeds realised from its disposition, be forfeited to the *[State/Crown]*.
- (2) Where the owner of any aquatic animal, aquatic product or other thing to which a conviction relates, is convicted of an offence under this Act and a fine is imposed the food or other thing—
 - (a) may be detained until the fine is paid; or
 - (b) may be sold in satisfaction of the fine.
- (3) The owner or other person notified under subsection (2) may appear before the court at the hearing of the application and show cause why the aquatic animal, aquatic product or other thing to which the conviction relates should not be forfeited.
- (4) Where the court does not order the forfeiture of the aquatic animal, aquatic product or other thing, then the food or other thing shall be returned to the owner.
- (5) Any property, aquatic animal, aquatic product or other thing ordered to be forfeited under this Act, at the expiry of the time limit for appeal and if no appeal is lodged, may be destroyed, sold, leased or donated to a charitable organization.
- (6) The proceeds of any sale of any item forfeited in accordance with this section shall be deposited into the *[to be specified at the national level]*.

Part 9 Jurisdiction, Evidence and Liability

43 Jurisdiction and standing

- (1) Any act or omission in contravention of any of the provisions of this Act, or regulations made under it, committed—
 - (a) by any person within the fisheries waters;
 - (b) by any national outside the fisheries waters; or
 - (c) by any person on board a licensed fishing vessel;may be dealt with and judicial proceedings taken as if such act or omission had taken place in *[specify country]* within the local limits of the jurisdiction of the *[specify court e.g. Supreme Court]*.

- (2) Any act or omission beyond the fisheries waters by a person referred to in subsection (1) (b) or (c) which if committed within the fisheries waters would be an offence shall be deemed to have been committed within the fisheries waters.
- (3) Where any regulation or licence condition requires specifically or incidentally the reporting of any fact while a vessel is beyond the fisheries waters then proceedings may be taken in respect of any failure to report or the misreporting of such fact as if it had occurred within the fisheries waters.

44 Burden of proof

In any proceedings under this Act, or regulations made under it, where a person is charged with having committed an offence involving an act for which a licence or other authorisation is required under this Act or such regulations the burden is on that person to prove that at the material time the requisite licence or authorisation was held by him or her.

45 Presumptions that fishery products are intended for human consumption

- (1) Any fishery product commonly used for human consumption shall, if placed on the market or offered, exposed or kept for placing on the market, be presumed, unless the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placing on the market for human consumption.
- (2) The following, namely—
 - (a) any fishery product commonly used for human consumption which is found on premises used for the preparation, storage, or placing on the market of that fishery product; and
 - (b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or placing on the market of fishery products,shall be presumed, unless the contrary is proved, to be intended for placing on the market, or for manufacturing fishery products or other food for placing on the market, for human consumption.
- (3) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, unless the contrary is proved, be presumed to be intended for such use.

46 General presumptions concerning fishing vessels

- (1) This section applies, in any legal proceedings under this Act or regulations made under it, to evidence in relation to fishing vessels and activities on fishing vessels.
- (2) Where the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of any enforcement vessel or aircraft as being the place in which the event took place shall be prima facie evidence of the place in which the event took place, unless the contrary is proved.
- (3) Prima facie evidence of an entry in a logbook or other official record of an enforcement vessel or aircraft may be given by the production of a written copy or extract of the entry certified by an authorised officer as a true copy of accurate extract.
- (4) For the purposes of legal proceedings, the act or omission of any member of the crew of a fishing vessel while aboard that vessel or engaged in fishing activity related to that vessel shall be deemed to be also that of the operator and master of the vessel, unless the contrary is proved.
- (5) An entry in writing or other mark in or on any log, chart or other document required to be maintained under this Act or under the [national fisheries Act] used to record the activities of a

fishing vessel shall be deemed to be that of the operator and master of the vessel, unless the contrary is proved.

- (6) Where in any legal proceedings—
- (a) an authorised officer gives evidence of reasonable grounds to believe that any fish to which the charge relates were taken in a specified area of the fisheries waters;
 - (b) the Court considers that, having regard to that evidence the grounds are reasonable, the fish shall be presumed to have been so taken, unless the contrary is proved.

47 Presumption as to manufacture

Evidence that a package containing any food to which this Act applies bore a name, address or registered trademark of the food establishment operator or food establishment, by which it was produced, manufactured or packed, shall be prima facie evidence that such food was produced, manufactured or packed, as the case may be, by that establishment or operator.

48 Certificate evidence

- (1) A certificate signed by the person in charge of a designated laboratory stating that an object or substance has been analysed or examined and stating the results of the analysis or examination, is admissible in any proceeding under this Act, or Regulations made under it, as prima facie evidence of the matters in the certificate and of the correctness of the results of the analysis or examination, provided that—
- (a) the party against whom it is produced may require the attendance of the head of the designated laboratory or the analyst who performed the analysis, for the purpose of cross examination;
 - (b) no such certificate shall be admissible in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate.
- (2) In any proceedings, the defendant cannot adduce evidence in rebuttal of a certificate issued by a designated laboratory in relation to any matter of which the certificate is evidence unless, within 14 days after a copy of the certificate is given to the defendant in accordance with subsection (2), or such further time as the court may allow, the defendant gives to the prosecutor notice in writing of the intention to adduce such rebuttal evidence.

49 Photographic evidence

- (1) Subject to subsection (2), where a photograph is taken of any item or activity, and—
- (a) simultaneously the date, time and position from which the photograph is taken are superimposed on the photograph; or
 - (b) the date, time and position are certified on the photograph at a later date by an authorised officer who was present at the time the photograph was taken,
- then it is presumed, unless the contrary is proved, that the photograph was taken on the date, at the time and in the position so appearing and shall be received in evidence by the Court.
- (2) The presumption set out under subsection (1) shall arise only if—
- (a) in the case of subsection (1)(a), the camera taking the photograph is connected directly to the instruments which provided the date, time and position concerned; and
 - (b) in either case, the photograph was taken by an authorised officer.

- (3) An authorised officer who takes a photograph of the kind described in subsection (1) may give a certificate in relation to that photograph stating—
- (a) his or her name, address, official position and authority under which he or she is appointed;
 - (b) the name and call sign, if known, of any fishing vessel appearing in the photograph;
 - (c) the matters, as appropriate, in subsection (2)(a); and
 - (d) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

50 Vessel monitoring system evidence

- (1) In the section “vessel monitoring system” means a vessel monitoring system established under [section xx of the Fisheries Act].
- (2) All information or data obtained or ascertained by the use of a device required under a vessel monitoring system shall be presumed, unless the contrary is proved, to—
- (a) come from the vessel so identified;
 - (b) be accurately relayed or transferred;
 - (c) be given by the master, owner and charterer of the vessel; and
 - (d) evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.
- (3) The presumption in paragraph (2) shall apply whether or not the information was stored before or after any transmission or transfer.
- (4) A monitoring device installed and operated in accordance with a vessel monitoring system shall be judicially recognized as accurate.
- (5) A person may give a certificate stating—
- (a) his name, address and official position;
 - (b) that he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from a vessel monitoring device;
 - (c) that the date and time the information was obtained or ascertained from the vessel monitoring device and the details thereof;
 - (d) that the name and call sign of the vessel on which the vessel monitoring device is or was located as known to him, or as ascertained from any official register, record or other document; and
 - (e) a declaration that there appeared to be no malfunction in the vessel monitoring device, its transmissions, or other machines used in obtaining or ascertaining the information.

51 Destruction of and tampering with evidence

- (1) A person who destroys, conceals, abandons, throws away, tampers with or does any other things to any—
- (a) food, container, packaging or other object; or
 - (b) log, return, record, document or any equipment or device containing any log, return, record or document,
- with intent to avoid their seizure or the detection of an offence under this Act or Regulations under it commits an offence.
- (2) A person who contravenes paragraph (1) commits an offence and is liable on conviction to [national penalty provision].

52 Strict liability

- (1) In any prosecution for any offence against this Act it shall not be necessary for the prosecution to prove that the defendant intended to commit an offence.
- (2) It shall be a defence in any such prosecution if the defendant proves that—
 - (a) the defendant did not intend to commit the offence; and
 - (b) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
 - (c) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.

Part 10 Miscellaneous

53 Rights of appeal against decisions of authorised officer, etc.

- (1) Any person aggrieved by an official action or decision of an authorised officer appointed pursuant to this Act may within 48 hours of the action or decision, appeal, in writing, to the Director of the Fisheries Department.
- (2) The Director, or such other person as the Director may nominate, shall determine the appeal within 48 hours of receiving the appeal, and may confirm, reverse or vary the action or decision against which the appeal is brought.
- (3) An appeal shall lie to the Sanitary and Phytosanitary Appeal Tribunal within 48 hours of the decision of the Fisheries Department.
- (4) The Sanitary and Phytosanitary Appeal Tribunal shall determine the appeal within 3 working days of receiving the appeal and may confirm, reverse or vary the action or decision against which the appeal is brought.
- (5) An appeal shall lie within seven days to the court on a question of law from a decision of the Sanitary and Phytosanitary Appeal Tribunal which otherwise shall be final on technical issues.
- (6) Unless the court so orders, the lodging of any appeal under this section shall not operate to stay the effect of a decision pending the determination of the appeal.

54 Disclosure of information

- (1) An authorised officer shall not disclose any information to a third party acquired in the performance of his duties unless otherwise ordered to do so in writing by the Minister or by a court.
- (2) Notwithstanding, subsection (1) an authorised officer may disclose information in accordance with the law to any of the persons under subsection (3) where the authorised officer is of the opinion that—
 - (a) there is a food safety risk; and
 - (b) disclosure to any of those persons is necessary to protect the health or safety of the public or that of an individual.
- (3) A disclosure under subsection (2) shall be made to—
 - (a) a minister for the purpose of the administration of this or any other Act dealing with public health or safety;
 - (b) the Chief Medical Officer or medical officer where the risk occurs; or

- (c) any person whom the Director considers affected or may be affected by the risk or who may contribute to the prevention, reduction or elimination of the risk.
- (4) Subject to subsection (3), in any instance where an authorised officer obtains information from a person who asserts a claim that the information provided should be treated as a trade secret or as confidential business information, the Director, any person or entity to whom or to which the information is disclosed shall treat that information as a trade secret or as confidential.

55 Regulations

- (1) The Minister may make regulations for the purposes of giving effect to the provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, such regulations may contain provisions in relation to—
 - (a) the carrying into effect of international standards, protocols and recommended practices or health requirements for the harvesting, processing, handling, storage and transport of aquatic animals and aquatic products;
 - (b) standards required in relation to sanitation and hygiene in respect of licensed processing establishments or licensed vessels;
 - (c) the procedures for the licensing of processing establishments or fishing vessels;
 - (d) procedures for the issuing of and conditions as to the validity of, export health certificates;
 - (e) monitoring, control and enforcement of matters relation to the export of aquatic animals and aquatic products, including—
 - (i) procedures for and the frequency of inspection of licensed processing establishments and licensed vessels;
 - (ii) the monitoring and control of production areas in relation to microbiological, chemical, environmental contamination and marine bio-toxins;
 - (iii) the monitoring of water and the sampling, testing and examination of fishery products and any other matter or thing;
 - (iv) procedures and conditions relating to the microbiological and chemical examination and testing of fishery products, at production areas, landing sites, processing establishments and fishing vessels and at all stages of the handling, transportation, processing and export of such products and by-products;
 - (f) the conditions for and the methods of demarcation, approval and listing of production areas, changes or closure of those areas, and communication of the list or changes to any importing country or any person requesting same;
 - (g) the prohibition of production and harvesting of aquatic animals and aquatic products in production areas deemed unsuitable by the competent authority;
 - (h) the establishment, operation and maintenance of laboratories or laboratory activities;
 - (i) requirements as to details of the health checks, including hazard analysis critical control points system for the production, harvesting, handling and processing of aquatic animals and aquatic products for export;
 - (j) standards and requirements concerning fishery products intended for export and the methods of giving assurances that such standards and requirements are being complied with; the wrapping, labelling and packaging of aquatic animals and aquatic products;
 - (k) the use of chemicals, chemical compounds, hormones or additives in the production, harvesting, handling and processing of aquatic animals and aquatic products;
 - (l) fees payable in respect of the licensing, inspection, sampling and such other service as the competent authority may determine;

- (m) the conditions under which a register shall be made available for inspection by the public and the fees payable in relation to such inspection; or
 - (n) any other matter that is required to be prescribed under this Act or pertaining to the export of aquatic animals and aquatic products which is required to give effect to the objectives of this Act.
- (2) Subject to subsection (3), when making regulations under subsection (1), the Minister shall, before the regulations in question are made consult with the competent authority, the advisory committee and, to the extent reasonable in light of the proposed regulations, such other persons as may have an interest in or be affected by the proposed regulations.
 - (3) The consultation requirements in subsection (2) may be dispensed with if the Minister considers that regulations are required on an urgent basis, in which case those requirements shall be carried out as far as possible prior to the making of the regulations and shall be completed as soon as is practicable after the making of the regulations.
 - (4) Any regulations made under subsection (1) may prescribe specific offences and provide that any person who commits such an offence is liable—
 - (a) to a fine of not more than [to be specified at the national level];
 - (b) if the offence is a continuing offence, to a further fine of [to be specified at the national level] for each day during which the offence continues; and
 - (c) to imprisonment for not more than [to be specified at the national level].

56 Repeals and savings

- (1) [Reference to repealed provisions, according to national circumstances].
- (2) Subject to subsection (3), all permits, licences granted or appointments made under the repealed provisions, valid and in force immediately before the coming into operation of this Act, shall continue, on such coming into operation, to have full force and effect for the term for which they were granted or made or until they expire or are revoked according to law as if the provisions under which they were granted or made had not been repealed.
- (3) Where the Minister is of the opinion that any term or condition of any licence permit or authorisation granted or appointment made under the repealed provisions is at variance with the provisions of this Act to an extent which makes it unacceptable, he or she shall by written notice—
 - (a) advise the holder of the licence or permit or authorisation, the operator of the vessel in respect of which a licence or permit or authorisation is granted, or the person appointed, as the case may be, of the terms or conditions that is unacceptable;
 - (b) specify the variation in any term or condition required to ensure compliance with this Act; and
 - (c) advise that the variation shall apply in respect of the licence, permit or authorisation, or appointment, as the case may be, with effect from a date specified in the notice, unless or she receives notification from the holder of the licence or permit, the operator of the vessel in respect of which the licence or permit is granted or the person appointed, as the case may be, that such variation is unacceptable, in which case the licence, permit or appointment, as the case may be, shall cease to have effect from the date specified.
- (4) Any agreement made under or in relation to the repealed provisions, which is substantially at variance with the provisions of this Act shall continue in full force and effect until the earliest possible date of its re-negotiation or renewal according to its terms, at which time it shall be re-negotiated so as to ensure compliance with the provisions of this Act.

Schedule

Statutes of the Advisory Committee

Composition of the advisory committee

(1) Members of the advisory committee shall be appointed by the Minister, in accordance with paragraphs (5) to (7).

(2) The membership of the advisory committee shall include at least the following—

- (a) a representative of the competent authority;
- (b) a representative of the Ministry responsible for fisheries;
- (c) a representative of the Ministry responsible for food safety;
- (d) a representative of the Ministry responsible for public health;
- (e) a representative of a fisherfolk or other non-government organisation with an interest in the export of fishery products;
- (f) a representative of the scientific or research sector with expertise in fisheries hygiene matters.

(3) A person appointed by the Minister under paragraph (4) shall be of sufficient seniority, and have sufficient knowledge, to enable him or her to participate competently in the activities of the advisory committee.

(4) A member of the advisory committee may hold office for a period of three years and shall at the expiry of that period be eligible for re-appointment.

(5) The Minister may replace any member of the advisory committee prior to the expiry of the period of office—

- (a) if the member is absent without reasonable excuse from three consecutive meetings of the advisory committee; or
- (b) if the member is unable to perform his responsibilities to the advisory committee, whether arising from infirmity of body or mind, absence, misconduct or any other cause.

Meetings and rules of procedure

(6) The representative of the competent authority shall be the Chairperson of the advisory committee.

(7) The members shall elect a member to be Vice-Chairperson, who shall perform the functions of the Chairperson at any meeting at which the Chairperson is unavailable.

(8) The functions of the Chairperson shall include—

- (a) to declare the opening and closing of each meeting;
- (b) to preside at meetings;
- (c) to rule on points of order;
- (d) to call for and announce the results of votes;
- (e) to determine, after consultation with other members, the draft provisional agenda for each meeting;
- (f) to arrange for the appointment of the members of Sub-Committees as required;
- (g) to sign a report of the proceedings of each meeting of the advisory committee, for transmission to the Minister; and
- (h) generally, to make such decisions and give such directions as will ensure, especially in the interval between meetings, that the business of the advisory committee is carried out efficiently and in accordance with its functions.

(9) A draft report of the proceedings of each meeting of the advisory committee shall be drafted and distributed as soon as possible to members by the Chairperson.

(10) Each member shall submit to the Chairperson within 7 days of receiving the draft report any comments or corrections that he or she wishes to be taken into account, after which the Chairperson shall compile as soon as possible the final report of the proceedings.

(11) The Chairperson shall cause the final summary record to be—

(a) submitted to the Minister as soon as possible after it is compiled; and

(b) within forty days of the meeting, made available to stakeholders through any reasonable means.

(12) Nothing in paragraphs (9) to (11) shall permit or require a person to disclose any information which is to be treated as confidential under this Act.

(13) Subject to the other provisions of these Statutes, the advisory committee shall determine its own rules of procedure for meetings.

Sub-committees

(14) The advisory committee may establish such other sub-committees as it considers necessary for the effective performance of its functions.

(15) A sub-committee established under paragraph (14) may consist of members of the advisory committee or members and non-members.

(16) The advisory committee shall determine the scope, functions and rules of procedure of a sub-committee established under paragraph (14).

Disclosure of interest

(17) A member of the advisory committee or of any sub-committee who has a personal interest in a matter being considered or dealt with by the advisory committee or sub-committee shall disclose to the Chairperson verbally or in writing the nature of the interest and shall not take part in the deliberation or decision of the advisory committee or sub-committee with respect to that matter.

(18) Without prejudice to any other action that is permitted by law, a person who contravenes paragraph (17) may be removed from his or her position in the advisory committee or sub-committee by the Minister in writing.

Allowances for Members of the Council

(19) Members of the advisory committee, including any sub-committees, shall be paid an allowance to compensate for the reasonable costs of attending any meeting of the advisory committee or a Sub-Committee, at a rate and in such manner as determined by the Minister, with the consent of the Minister responsible for finance.

(20) Observers shall not be entitled to any payment of an allowance or other compensation for attendance at a meeting of the advisory committee or a sub-committee.

Amendment of these Statutes

(21) These Statutes may be amended—

(a) by the Minister, by means of regulations; or

(b) upon unanimous agreement of Members present and voting and with the consent of the Minister.

**ANNEX C (II):
FISH HYGIENE LICENSING AND
INSPECTION REGULATIONS [2017]**

Fish Hygiene Licensing and Inspection Regulations [2017]

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Part 1

Preliminary

1 Citation and commencement

These Regulations may be cited as the Fish Inspection Regulations [2017] and come into force on [insert date and/or procedure].

2 Interpretation

(1) In these Regulations—

- (a) words and expressions defined in section 2 of the Act have the meaning given in that Act;
- (b) “the Act” means the [CARICOM Model Aquatic Animals and Aquatic Products Hygiene Act]; and

(c) unless the context otherwise requires—

“amenities” includes toilets, showers, locker rooms, change rooms, canteens, kitchens, smoking rooms for staff and sleeping quarters on a vessel;

“batch” means a quantity of prescribed products of the same type consisting of one or more lots, or parts of lots, from the same licensed processing establishment or licensed vessel or harvested from a production area;

“carrier vessel” means any motorized mother, fishery or fishing boat or ship used only for carriage of aquaculture, inland or marine products or their by-products;

“chilled”, in relation to prescribed products, means cooled by a process so that the temperature of the product is held between +10 and +4° Celsius;

“consignment” means any quantity of prescribed products or their by-products harvested or handled in a licensed processing establishment or a licensed fishing vessel and intended for export;

“container”, in relation to a prescribed product, means the principal covering in which the product is packed;

“critical control point” means a step, practice, procedure, process or location, that can be controlled in order to prevent, reduce or eliminate a hazard, or minimize the likelihood of its occurrence;

“distribution system” means the public water supply;

“equipment” includes machines, machinery, fixed or moveable devices, implements, apparatus, utensils, appliances, attachments, fittings and fixtures, gears, gadgets, tackles, accessories and contraptions;

“frozen”, in relation to a prescribed product, means cooled in such a manner that the temperature of every part of the product is -18° Celsius or below after thermal stabilization;

“HACCP plan” means Hazard Analysis Critical Point plan;

“licence” means a licence granted under these Regulations;

“licensed processing establishment” means a processing establishment operated by a licensee;

“licensed vessel” means a prescribed fishing vessel operated by a licensee;

“licensee” means a person to whom a licence is granted under these Regulations;

“marine biotoxin” means a poisonous substances accumulated by bivalve molluscs feeding on plankton containing toxins;

“monitoring” includes inspection, measuring, sampling and analysis, whether periodically or continuously;

“noxious substance” means any chemical residue, marine biotoxin or other contaminant or prohibited substance;

“operator” means the owner, director, controller or other person in charge of or responsible for the operations of a processing establishment or prescribed fishing vessel and includes a charterer, lessee and master;

“operating certificate” means a certificate issued by the competent authority signifying that a processing establishment or prescribed fishing vessel is licensed under these Regulations;

“packaging” means the procedure of protecting aquatic animal products and by-products by a wrapper, container or any other suitable device, and “package” shall be construed accordingly;

“port” includes an airport and a seaport;

“prescribed fishing vessel” means a fishing vessel referred to in regulation 5;

“prescribed product” means any product referred to in regulation 3(1);

“processing” means heating, smoking, salting, marinating, dehydration, chilling, filleting, slicing, skinning, mincing, or combinations thereof or any other physical or chemical treatment of any aquaculture animal, aquatic product or by-product but does not include post-harvest handling;

“processing establishment” means my premises in which aquaculture animals, aquatic products or their by-products are processed, handled or stored for export;

“water intended for use in the processing of prescribed products” means-

(a) potable water intended for food preparation, cooking or other domestic purposes, regardless of its origin (including wells, ponds and streams) and whether it is supplied from a public or private distribution system, from a tanker, or in bottles or other containers; and

(b) water used in any licensed processing establishment or vessel for the manufacture, processing, preservation or marketing of prescribed products or substances intended for human consumption; and

“wholesome”, in relation to water, prescribed products or an ingredient thereof, means free from micro-organisms, parasites, disease, damage, mould, decay, contamination, deterioration or any other defect which renders the water, prescribed products or ingredients thereof, unfit for human consumption;

- (2) The following words and expressions have the meaning given in the [Fisheries Act]: “fish”, “crustacean”, “mollusc”, “aquatic product”, “aquaculture”, “inland fisheries” and “marine fisheries”.

3 Application

- (1) Subject to paragraph (3), these Regulations apply to fresh, chilled or frozen fish, molluscs, crustaceans and other aquatic products and their by-products, from aquaculture, inland fisheries or marine fisheries, intended for human consumption [and intended for export].

- (2) The provisions of these Regulations apply to the safety of prescribed products at all stages in the food chain including—

- (a) production, processing, manufacturing or other preparation;
- (b) handling, sale and distribution;
- (c) import, transit and export;
- (d) transport, packaging and storage;

- (e) any other activity related to the activities mentioned in paragraphs (a) to (d) whether a prescribed product is prepared or processed in a permanent or temporary structure and whether on land, air or at sea.
- (3) These Regulations shall not apply to products—
- (a) that are ships' stores or aircraft stores, which are brought into [country] for the service of a ship while on a voyage, or on an aircraft on a flight to or from [country];
 - (b) that have not been produced, processed or manufactured in [country], being products that have been imported into [country] and are in transit or held in bond for re-export;
 - (c) that are imported into [country] and re-exported in the same covering and under the same trade description as the covering and trade description in or under which they were imported;
 - (d) that are exported in a consignment that does not exceed—
 - (i) 1 litre in the case of liquid; or
 - (ii) 1 kilogram in any other case;
 - (e) that are being imported—
 - (i) as a commercial sample in the quantities specified in sub-paragraph (d); or
 - (ii) in such circumstances as are determined by the competent authority for the purposes of assisting it in the discharge of its functions under the Act or these regulations.

4 Registration requirement

- (1) No person shall operate a registered establishment unless—
- (a) it meets the requirements for registration under the [national food safety legislation]; and
 - (b) it meets the requirements of these Regulations.
- (2) No person shall use a vessel for fishing or for transporting fish unless the vessel—
- (a) is licensed under; and
 - (b) meets the applicable requirements of, these Regulations.

Part 2

Licensing of fishing vessels

5 Prescribed fishing vessels

This Part applies to the fishing vessels described in Schedule 1.

6 Application for licence

- (1) An application for a licence to operate a prescribed fishing vessel shall be in the form set out [for the type of fishing vessel subject to the application] in Schedule 2.
- (2) An application shall be accompanied by the appropriate fee specified in Schedule 3.

7 Materials to accompany an application

- (1) An application under regulation 6(1) shall be accompanied by—
- (a) a HACCP plan or such other system or procedure which, in the opinion of the competent authority, is equivalent to a HACCP plan;

- (b) an outline of good manufacturing practices; and
 - (c) the plans and specifications specified in paragraphs (2) to (4).
- (2) The plans referred to in paragraph (1) shall include—
- (a) a layout of the vessel;
 - (b) a product flow chart and the main features of the product flow;
 - (c) a list of all major items of equipment used in the processing of prescribed products; and
 - (d) the potable water supply or provision for the use of clean sea water;
 - (e) toilet facilities and means of storage and disposal of solid waste;
 - (f) in the case of a housing vessel, facilities for the hygienic storage of diving, fishing and other equipment and sleeping and first aid facilities.
- (3) Where it is intended that dories or canoes will supply prescribed products to the vessel, the plans referred to in paragraph (1) shall also include—
- (a) the numbers of dories and canoes it is intended will supply the vessel; and
 - (b) the layout of dories and canoes, showing the separation of product handling and fuel handling areas.
- (4) The specifications referred to in paragraph (1) shall contain details on the following—
- (a) construction materials of the equipment used in product handling areas;
 - (b) surface finishes;
 - (c) surfaces with which ingredients or prescribed products will come in contact;
 - (d) availability of electricity and water;
 - (e) operating temperatures, freezing rate and storage capacity of all refrigeration equipment and refrigerated rooms, holds and tanks;
 - (f) the number of crew and persons carrying out harvesting, handling, processing and storage duties.
- (5) The statement referred to in paragraph (4)(e) shall be prepared by a qualified cold storage technician detailing the following—
- (a) in relation to each cold store and chiller—
 - (i) the method of refrigeration;
 - (ii) the storage capacity in kilograms for relevant prescribed products; and
 - (iii) holding temperature; and
 - (b) in relation to each freezer—
 - (i) the storage capacity in kilograms for the relevant prescribed products; and
 - (ii) the time required to reduce a full load of a stated prescribed product (processed on a vessel or at the processing establishment and to be stored in the freezer) from a stated initial temperature to a temperature of -18°C.

8 Grant of licence

- (1) The competent authority shall not issue (whether on the first or on any subsequent occasion) a licence for the purpose of these Regulations unless—
- (a) the competent authority is satisfied that—
 - (i) the fishing vessel which is to be the subject of the licence is suitable for such purposes, taking account of the requirements in these Regulations and any codes of practice, standards or protocols which should apply;

- (ii) the applicant has in place a system for management of the activities to be undertaken which will ensure compliance with these Regulations and any codes of practice, standards or protocols which should apply; and
 - (iii) the applicant is otherwise a fit and proper person to hold a licence; and
 - (b) the fishing vessel has been duly inspected by an authorised officer; and
 - (c) the applicant has paid the fee specified in Schedule 3.
- (2) The competent authority may attach to any licence issued under paragraph (1) any specific conditions as he may think fit in order to ensure the proper functioning of the premises in accordance with the Act and these Regulations.
 - (3) The licence shall be in the form set out in Form 2 in Schedule 2.
 - (4) Where the competent authority refuses to grant a certificate or licence, or grants it subject to any condition to which the applicant objects, he shall notify the applicant in writing of—
 - (a) the reasons for the refusal or the imposition of the condition; and
 - (b) the applicant's right of appeal under section 60 of the Act.
 - (5) An applicant shall not be considered a fit and proper person to hold a licence for the purposes of paragraph (1)(a)(iii) if in the three years preceding the application he has been convicted of any offence concerning food safety, agricultural health or the welfare of animals.
 - (6) may, without limitation, take account of the applicant's history of compliance with food safety or fisheries legislation.

9 Duration of licences

- (1) A licence granted under regulation 8 is valid for 1 year from its date of issue unless it is revoked earlier under regulation 10 or by a court.
- (2) Despite paragraph (1), a licence granted under regulation 8 may be valid for such other period as the Fisheries Department may determine in order to coincide with the period of validity another fishing vessel licence or registration issued by it.

10 Suspension or revocation of a licence

- (1) The competent authority may, by notice in writing, suspend or revoke a licence if satisfied that—
 - (a) the holder of the licence has not complied with, is not complying with or is not likely to comply with any condition of the certificate or licence or with any provision of the Act or these Regulations;
 - (b) the licensed vessel is no longer operated for the purpose for which the authorisation was granted or has ceased to operate; or
 - (c) it is necessary to revoke the licence to prevent or limit the risk of the spread of disease or to protect human health.
- (2) Written notice under this regulation must—
 - (a) give reasons for the suspension or revocation;
 - (b) state when the suspension or revocation comes into effect and, in the case of suspension, state on what date or event it is to cease to have effect; and
 - (c) give details of the right of appeal against the decision.
- (3) Any person whose certificate or licence is suspended or revoked must, whether or not that suspension or revocation is the subject of an appeal pursuant to section 60 of the Act, surrender it to the competent authority within 14 days of receipt of the notice informing that person of the suspension or revocation.

11 Modification of a licence

- (1) The competent authority may—
 - (a) on its own initiative; or
 - (b) on the application of the licence holder,modify a licence, including any condition of a licence.
- (2) An application under paragraph (1)(b) shall be made on a form provided by the competent authority for the purpose and be accompanied by such information in such form as the competent authority may reasonably require.
- (3) Where the competent authority modifies a certificate or licence under paragraph (1) or, in the case of an application under paragraph (1)(b), refuses to grant the modification, it shall, by notice served on the operator—
 - (a) specify the amendment and state the date on which it is to take effect or, in the case of a refusal, state its decision not to grant the application;
 - (b) give the reasons for the amendment or the refusal; and
 - (c) inform the operator of the right of appeal under section 60 of the Act.
- (4) An application to modify a licence under paragraph (1)(b)—
 - (a) shall be accompanied by such information and documentation as the competent authority may require; and
 - (b) shall cause an inspection to be carried out of the licensed vessel.
- (5) This regulation does not apply to a minor modification, not being an alteration that, in the authorised officer's opinion—
 - (a) is likely to affect the hygienic condition of the licensed vessel; or
 - (b) the manner in which prescribed products are inspected.

12 Keeping of records

- (1) A licensee shall maintain and keep all reasonable records and information concerning the licensed vessel, as the case may be, including—
 - (a) any licences or other authorisations granted under these Regulations;
 - (b) any records or information specified in these Regulations, or any code of practice, standard or protocol;
 - (c) production records;
 - (d) all management procedures and policies.
- (2) Any licence or other authorisation granted under these Regulations shall be kept on board the licensed fishing vessel, at all times during the period of validity of the licence or authorisation.
- (3) Records required to be kept under paragraph (1) shall be retained—
 - (a) in the case of records relating to the harvesting, handling, processing or movement into or out of prescribed products, for the shelf life of the products, or for a period of three years, whichever is the longer;
 - (b) in any other case, for a period of three years, and be made available for inspection on request.
- (4) All records kept by an operator shall be accurate, legible and dated.

- (5) No person shall alter or tamper with any recording or measuring device used to supply data, information or other recordings required by or under these Regulations in order to obtain a false or misleading reading.

13 Requirements and conditions for licensed vessels

A fishing vessel licensed under these Regulations must—

- (a) be of a design and construction so as to comply with the specifications in Schedule 4; and
- (b) be operated in accordance with the specifications in Schedule 5.

14 Dissemination of information on water quality

The competent authority shall—

- (a) publish an annual report on the quality of water intended for use in the processing of prescribed products in licensed vessels; and
- (b) disseminate—
 - (i) that report; and
 - (ii) other relevant information on the quality of water intended for use in the processing of prescribed products in licensed vessels, widely to operators of licensed vessels.

15 Notification requirements

(1) An operator of a licensed vessel shall—

- (a) notify the competent authority of the source of its water supply;
- (b) ensure that the water used on his vessel is potable water or clean sea water; and
- (c) maintain a distribution and recirculation plan identifying all pipes and outlets within the licensed vessel.

(2) When required by an inspector, the operator shall—

- (a) demonstrate the water distribution system on his vessel; and
- (b) make the plan referred to in paragraph (1)(c) available for inspection.

16 Inspection and monitoring programmes

(1) The competent authority shall establish appropriate programmes to monitor the quality of water intended for use in the processing of prescribed products to ensure that the water conforms to the parameters and parametric values set in Schedule 5.

(2) Any monitoring programme established under paragraph (1) shall—

- (a) involve examination of samples from the water sources in accordance with regulation 18; and
- (b) meet the quality standards referred to in paragraph (3).

(3) The competent authority shall publish quality standards for the monitoring programmes aimed at ensuring that the water conforms to the parameters and parametric values set in Schedule 5.

17 Failure to meet water quality standards

- (1) Where it is found, as a result of monitoring carried out under regulation 16 that the water at source does not comply with the parameters and parametric values set in Schedule 5, the competent authority shall as soon as is reasonably practical—
 - (a) launch an investigation in order to determine the cause of the deterioration in the quality of the water;
 - (b) warn all operators where there is an unacceptable risk to public health;
 - (c) in the case of the national supplier of water, advise of the problem and prepare an action programme for the improvement of the quality of water;
 - (d) in the case of a private water supply, notify the person responsible for the supply and advise of the measures to be taken for the improvement of the quality of the water; and
 - (e) ensure that immediate remedial action is taken to improve the parameters and parametric value of the water.
- (2) If water intended for use in the processing of prescribed products does not meet the parameters and parametric values established in Schedule 5 the operator shall—
 - (a) ensure that the necessary remedial action is taken as soon as possible to restore the quality of the water; and
 - (b) give priority to cases based on the extent to which the parameters and parametric values have been exceeded and the extent to which the wholesomeness of the particular product has been compromised.
- (3) Where an operator fails to apply the appropriate treatment techniques to reduce or eliminate the risk of dangerous levels of micro-organisms, parasites or other substances in the water, the competent authority shall cause the operator to suspend its processing operations pending compliance.
- (4) In the event of non-compliance with the parameters and parametric values set out in Schedule 5, the competent authority shall consider whether that non-compliance poses any risk to the wholesomeness of any product.
- (5) Every operator shall ensure that additional monitoring of the micro-organisms, parasites or other substances for which no parameters and parametric values have been set in Schedule 5 is carried out on a case by case basis.

18 Operator examinations

- (1) An operator shall carry out routine examinations of the water supply under the supervision of the competent authority and the analysis thereof may be done either in the operator's laboratory or in another laboratory approved by the competent authority.
- (2) An examination under paragraph (1) shall be carried out at—
 - (a) once per year in the case where the supply is from a public source and there is no intermediate storage system;
 - (b) once per week, in the case where the supply is from a private supply system or a public supply system with intermediate storage; and
 - (c) once per month in the case of a microbiological examination.
- (3) If the results of any routine tests are unsatisfactory, an immediate investigation and further sampling shall be carried out.
- (4) Where two consecutive samples from a source of water test positive for coliform organisms, that source of water shall not be used until the contamination has been eliminated.

- (5) The competent authority may, at such intervals as it may determine, require an operator to cause an examination of samples of water used in a licensed vessel.
- (6) Records of water testing results shall be kept by the competent authority and by the operator of a licensed vessel.
- (7) An operator shall establish a system—
 - (a) to check the chlorine content in water used in the handling of prescribed products and such checks shall be carried out at least once every hour during the period of processing;
 - (b) which shall be capable of identifying and dealing with abnormalities in the chlorine content of water.

Part 3

Harvesting and Production

19 Inspection, demarcation and approval of production areas

- (1) The competent authority may, from time to time, conduct or cause to be conducted the inspection, sampling, testing and analysis of the waters of production areas to ensure that there is no noxious substance present therein in such quantities as would be harmful to human health.
- (2) Where any such inspection indicates—
 - (a) that the waters contain no noxious substance in the quantities referred to in paragraph (1), the competent authority may demarcate and approve that production area as one from which prescribed products may be harvested for export;
 - (b) the presence of any such substance above acceptable levels, the competent authority shall forthwith take such steps as are necessary to notify interested persons of the results of that inspection.
- (3) Production areas in which bivalve molluscs, tunicates, echinoderms and marine gastropods are reared or harvested shall be demarcated in such a manner as to indicate—
 - (a) the areas from which those products may be harvested for export for human consumption;
 - (b) subject to paragraph (4), the areas in relation to which harvested products—
 - (i) are required to undergo purification in a relay area before being exported;
 - (ii) can only be exported over such period (not being less than two months) as the authority may determine whether or not those products undergo purification; or
 - (iii) can only be exported after undergoing extensive purification.
- (4) Harvested products from areas referred to —
 - (a) in paragraph (3)(b)(i) shall not exceed the limits of a five-tube, three-dilution MPN-test of 300 faecal coliform per 100 gram of flesh or 230 E.coli per 100 grams of flesh in 90% of any sample; and
 - (b) in paragraph (3)(b)(ii) shall not exceed the limits of a five-tube, three-dilution MPN-test of 300 faecal coliform per 100 gram of flesh.
- (5) Notwithstanding the tests specified in paragraph (4), an equivalent test which is internationally recognized may be applied to determine the limits; applicable, to the harvested products referred to in that paragraph.
- (6) The competent authority shall keep records of all inspections, sampling, testing and analysis carried out pursuant to paragraph (1).

20 Unsuitable growing or harvesting areas

- (1) Prescribed products for export shall not be grown in or harvested from areas where there is a presence of pesticides, fungicides or heavy metals.
- (2) Shellfish with depuration shall not be harvested for export from areas where faecal material, pathogenic micro-organisms, noxious substances, phytoplanktons or radionuclides are present in concentrations that are harmful to human health.
- (3) Shellfish shall not be harvested from any production area in which—
 - (a) the concentration of paralytic shellfish poison equals or exceeds 80 micrograms per 100 grams of edible portion of raw shellfish; or
 - (b) poison is found in detectable harmful levels in the shellfish.
- (4) Oysters intended for depuration shall not be harvested from production areas in which—
 - (a) the total coliform median MPN exceeds 700 per 100 ml or more than 10 per cent of the samples of the water exceed an MPN of 230 per 100 ml for a five-tube decimal dilution test; or
 - (b) the faecal coliform median MPN exceeds 88 per 100 ml or more than 10 per cent of the samples of the water exceeds an MPN of 260 per 100 ml for a five-tube decimal dilution test.
- (5) Notwithstanding the tests specified in paragraph (4), an equivalent test which is internationally recognised may be applied to determine the limits applicable to oysters.

21 General requirements regarding fish and fishery products

- (1) Methods and procedures associated with harvesting and production of prescribed products shall be hygienic and aimed at preventing contamination.
- (2) All prescribed products shall be harvested alive.
- (3) Prescribed products which are unfit for human consumption shall be—
 - (a) isolated during harvesting and processing for disposal;
 - (b) disposed of or handled in such a manner as to prevent their contamination of other prescribed products, water supplies or other product and packaging material.

22 Equipment and containers

- (1) Equipment and containers used for the harvesting and production of prescribed products shall—
 - (a) be constructed and maintained so as not to constitute a hazard to health;
 - (b) if reusable, be of such material and construction as to permit easy and thorough cleaning; and
 - (c) be maintained in a clean condition and, where necessary, be sanitized.
- (2) Containers used for toxic materials shall not be used for holding prescribed products or ingredients and equipment used for handling or processing those products.

23 Protection of raw materials

- (1) Packaging, ingredients and raw materials relating to prescribed products shall be protected during production, storage and transport from—
 - (a) contamination by—
 - (i) pests;
 - (ii) physical and chemical agents;

- (iii) microbiological contaminants;
 - (iv) other objectionable substance; and
- (b) deleterious changes due to temperature or other physical causes.
- (2) Conveyances and equipment shall be suitable and adequate for the protection of prescribed products.
- (3) Stocks of raw materials and ingredients shall be used so as to ensure that the oldest stock is used first.

24 Prevention of cross-contamination

- (1) An operator shall take such measures as are necessary to prevent cross-contamination of prescribed products.
- (2) The following provisions of this paragraph shall apply in relation to the processing of prescribed products—
 - (a) contaminated protective clothing shall not be worn by a person handling raw materials or prescribed products;
 - (b) to prevent contamination, the hands of every person who handles prescribed products shall be washed thoroughly at different stages of processing; and
 - (c) all equipment with which raw materials or contaminated material have been in contact shall be thoroughly cleaned and sanitized prior to being re-used.
- (3) Potable water or clean sea water shall be used during the handling and processing of prescribed products and for the cleaning of all surfaces with which prescribed products may come in contact.
- (4) All steps in the production process, including packaging, shall be performed without unnecessary delay and under conditions which will minimize the possibility of contamination, deterioration, or the development of pathogens and contamination by foreign matter.
- (5) An authorised officer shall, during the business hours of a licensed processing establishment, take samples of prescribed products for examination at such times as are appropriate during preparation of the products to ensure that the products comply with the provisions of these Regulations.
- (6) An operator shall keep records in respect of each batch of prescribed products stating—
 - (a) the quantity product processed;
 - (b) the temperatures and times at which products were processed;
 - (c) the details of sampling; and
 - (d) any other information that is relevant to showing that the food is processed in accordance with the provisions of these Regulations.
- (7) Prescribed products shall be stored under appropriate physical conditions, including temperature and humidity, that will—
 - (a) minimize the contamination by, and proliferation of, micro-organisms; and
 - (b) protect the prescribed products from deterioration.

25 Chilling and freezing

- (1) The chilling and freezing of prescribed products shall be performed with sufficient speed to prevent any physical, biochemical or microbiological deterioration of the products.
- (2) Freezing shall be carried out in a room or chamber specifically designed for the purpose and not in a cold store.

- (3) Cold stores shall be operated so that they maintain frozen prescribed products in their frozen state.
- (4) Frozen prescribed products shall be stored at a temperature of -18°C or colder, and where the temperature rise—
 - (a) to between -17°C and -15°C, it shall be reduced to -18°C or colder as quickly as possible; or
 - (b) to between -14°C and -12°C, it shall be reduced to -18°C or colder as quickly as possible and the prescribed products shall be reassessed for wholesomeness, fitness for human consumption and compliance with the appropriate product standard; or
 - (c) above -12°C, the product shall be rejected.
- (5) Prescribed products shall at all times be maintained in a frozen state during the transportation to or from a licensed processing establishment.

26 Thawing of prescribed products

- (1) Every licensed processing establishment that carries on thawing operations shall comply with the following requirements—
 - (a) prescribed products shall be brought to their thawed state as quickly as possible without causing undesirable physical, biochemical and microbiological changes to the products;
 - (b) prescribed products shall be thawed under hygienic conditions, including drainage of any meltwater produced, in order to ensure the prevention of any contamination;
 - (c) during thawing the temperature of prescribed products shall not be increased excessively and shall remain evenly distributed throughout the products.
- (2) After thawing, prescribed products shall be handled and processed without delay in accordance with these Regulations.
- (3) Fresh or thawed or cooked and chilled prescribed products shall be kept at the temperature of melting ice.

27 Refrigeration

The air temperature of a refrigerator at licensed processing establishment containing prescribed products for export or its ingredients shall be recorded at least once every hour.

28 Dried prescribed products

- (1) Prescribed products shall be dried to a moisture content level low enough to prevent the growth of pathogenic micro-organisms.
- (2) Dried prescribed products shall be processed and transported in a manner which minimizes contamination, deterioration, spoilage or the development of pathogenic micro-organisms in them.
- (3) Prescribed products for export may, if the competent authority approves, be sun dried in the open air.

29 Unloading, handling, etc.

- (1) No person shall unload, handle, hold or transport fresh fish intended for processing unless the unloading, handling, holding or transportation meets the requirements [refer to the specific Protocol].

- (2) No person shall export, process for export or attempt to process for export any fresh fish unless the unloading, handling, holding and transportation have been conducted in accordance with [refer to the specific Protocol].

30 Calibration of equipment

- (1) All measuring instruments, gauges and devices used in connection with the preparation of prescribed products shall be graduated in a manner which enables them to be read accurately and shall be calibrated by the appropriate regulatory body.

Part 4

Enforcement and Compliance Notices

31 Improvement notices

- (1) If an authorised officer has reasonable grounds for believing that an operator or licensee is failing to comply with any condition or requirement applicable to him, the authorised officer may serve an improvement notice on that operator or licensee.
- (2) An improvement notice served under paragraph (1) shall—
- (a) state the authorised officer's grounds for believing that the operator or licensee is failing to comply with the applicable requirements;
 - (b) specify the matters which constitute the operator's or licensee's failure to comply;
 - (c) specify the measures which, in the authorised officer's opinion, the operator or licensee must take in order to secure compliance;
 - (d) require the operator or licensee to take those measures, or measures which are at least equivalent to them, within such period as may be specified in the notice; and
 - (e) inform the operator or licensee of the right to appeal against the notice under section 60 of the Act.
- (3) Without limiting the generality of paragraph (2) an improvement notice may direct a person to—
- (a) clean and disinfect premises or equipment;
 - (b) enhance operational and sanitary measures;
 - (c) modify or replace equipment;
 - (d) alter food safety practices at any stage of the business process.
- (4) The period of time specified in paragraph (2)(c) shall take into account—
- (a) the seriousness of the act of non-compliance and the level of food safety risk that presents;
 - (b) the extent and complexity of the modifications required in the operator's or licensee's practices, procedures or facilities and the capacity of the operator or licensee to implement those modifications
- but in any case shall not be less than 14 days and shall be no longer than one year.

32 Enforcement notices

- (1) If an authorised officer—
- (a) considers that there is a contravention of, or failure to comply with, a requirement applicable to a person by virtue of these Regulations; and

- (b) reasonably suspects that as a result of such contravention or failure to comply, there is a risk to human or animal health,
- the authorised officer may serve an enforcement notice on that person.
- (2) An enforcement notice served under paragraph (1) shall—
 - (a) state the authorised officer’s grounds for believing that—
 - (i) the person is contravening or failing to comply with applicable requirements; and
 - (ii) there is a risk to human or animal health;
 - (b) specify the matters which constitute the person’s failure to comply;
 - (c) specify the steps that must be taken in order to secure compliance;
 - (d) specify the date by which the steps must be taken; and
 - (e) inform the person of the right to appeal against the notice under section 60 of the Act.
 - (3) Without limiting the generality of paragraph (2) an enforcement notice may direct a person to—
 - (a) clean and disinfect premises or equipment;
 - (b) enhance operational and sanitary measures;
 - (c) modify or replace equipment;
 - (d) alter food safety practices at any stage of the business process;
 - (e) modify or stop operations until the person has taken the remedial actions specified in the notice.

33 Emergency control notices

- (1) Where an authorised officer reasonably suspects—
 - (a) on the basis of any information or knowledge that he acquires in the course of his duties; or
 - (b) on the basis of any formal notification made to him, another authorised officer or the Director pursuant to the Act or these Regulations,

that any premises or any area is infected or a disease poses a serious and imminent threat to animal or human health, the animal health inspector may serve an emergency control notice in accordance with paragraph (2).
- (2) An emergency control notice may be served—
 - (a) on the master of a fishing vessel or any person in charge of or in occupation of an animal establishment or other premises;
 - (b) if a person described in sub-paragraph (a) cannot reasonably be located or identified, on any crew member of a fishing vessel or any employee of a licensed processing establishment present on the fishing vessel or on the premises of that animal establishment, as the case may; or
 - (c) if no person can reasonably be located or identified, by affixing it in a conspicuous place on the fishing vessel or other premises.
- (3) Following service of a notice under paragraph (1), an authorised officer may board the fishing vessel or enter the premises and on the fishing vessel, premises or elsewhere and may take steps or require any person to take steps to—
 - (a) prevent, control or reduce the risk of the spread of disease;
 - (b) destroy or treat any infected animals or infected material;
 - (c) modify or stop operations until remedial actions have been completed.
- (4) A authorised officer acting under paragraph (3) must, if requested to do so, show evidence of their authority to act.

- (5) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours' notice has been given to the occupier.
- (6) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.
- (7) A authorised officer may be accompanied by such other persons and may bring onto the premises such equipment and vehicles, as the officer considers necessary.
- (8) A person accompanying an officer under paragraph (7)—
 - (a) may remain on the premises and from time to time re-enter the premises without the officer;
 - (b) bring onto the premises any equipment or vehicle which the person considers necessary;
 - (c) carry out work on the premises in the manner directed by an authorised officer.
- (9) A person accompanying an officer under paragraph (8) must, if so requested, show evidence of their authority given in that behalf by these Regulations.

34 Service of notices

- (1) A notice under these Regulations may be served on any person—
 - (a) by delivering it to him personally;
 - (b) by leaving it for him at his usual or last known place of abode or business;
 - (c) by sending it in a prepaid registered letter addressed to him at his usual or last known place of abode or, where an address for service has been given by that person, at that address; or
 - (d) in the case of a body corporate, or other body, by delivering it to the Director or other officer of that body at its registered or principal office in [country name], or by sending it in a prepaid registered letter addressed to the secretary or other officer of that body at that office.
- (2) Where a notice under these Regulations is to be served on the occupier or other person in charge of premises, and the last known place of abode or business of that person cannot be ascertained after reasonable inquiry, the notice shall be taken to be served seven days after it has been addressed to “the occupier” and affixed conspicuously to an object on the premises to which the notice relates.
- (3) Where a notice is served under these Regulations, an authorised officer may, either in that notice or in a separate notice served on the owner or on such other person as appears to him to be in charge of the premises to which the notice relates, require the person on whom the notice is served to inform—
 - (a) the Director of any change in the occupation of the premises to which the notice relates together with the date of such change and the name of the new occupier; and
 - (b) the new occupier of the premises of the contents of the notice.

35 Coming into effect of notices

Unless a notice specifies a later date—

- (a) an emergency control notice shall come into effect at the time it is served; and
- (b) any other notice shall come into effect either 24 hours after it has been served.

36 Information as to compliance with notices

A person on whom a notice has been served, or is deemed to have been served, under these Regulations shall, if so required by an authorised officer, immediately inform the authorised

officer whether the requirements of the notice have been complied with and, if they have been complied with, of the details of the steps taken in order to comply with those requirements.

37 Failure to comply with a notice

If any person fails to comply with a notice, other than a notice served under regulation 0, an authorised officer may—

- (a) take such steps as the authorised officer considers necessary to—
 - (i) ensure compliance with the notice; or
 - (ii) remedy the consequences of the failure to comply with the notice;
- (b) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the notice.

38 Costs of compliance

Unless the competent authority directs otherwise in writing, a notice served under these Regulations shall be complied with at the expense of the person on whom it is served.

Part 5 Offences and Penalties

39 Penalties

A person who is guilty of an offence under these Regulations is liable—
[national penalties to be specific].

40 Fixed penalty offences

A person who is guilty of an offence under these Regulations is liable—
[national fixed penalty offences to be specified].

41 False or misleading information

- (1) It is an offence for a person, in relation to a notice served upon him—
 - (a) to make a statement which that person knows or suspects is false or misleading in a material particular; or
 - (b) intentionally to fail to disclose any material particular.
- (2) It is an offence for a person intentionally to make a false entry in any document or record required to be kept by virtue of an authorisation or a requirement under these Regulations.

42 Obstruction

- (1) It is an offence for a person—
 - (a) intentionally to obstruct any person acting in the execution of these Regulations;
 - (b) without reasonable cause, to fail to give any person acting in the execution of these Regulations any assistance or information or to provide any facilities which that person may reasonably require the person to give or provide for the performance of that person's functions under these Regulations;

- (c) knowingly or recklessly to give false or misleading information to any person acting in the execution of these Regulations;
 - (d) without reasonable cause, to fail to produce any document or record when required to do so by any person acting in the execution of these Regulations.
- (2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question if to do so might incriminate that person.

43 Offences by bodies corporate

- (1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) any director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person who was purporting to act in any such capacity,
- he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In paragraph (1), “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

44 Offences due to fault of another person

- (1) 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.

45 Fixed penalty notices

- (1) Where on any occasion an authorised officer finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may give to that person a fixed penalty notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Where a person is given a fixed penalty notice in respect of a fixed penalty offence—
- (a) no proceedings shall be instituted for that offence before the expiration of the period for paying the fixed penalty; and
 - (b) he shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (3) A fixed penalty notice shall—
- (a) be in the form set out in Schedule 6, or such other form as the Minister may prescribe;
 - (b) give such reasonable particulars of the circumstances alleged to constitute the offence to which the notice relates; and
 - (c) state—
 - (i) the amount of the fixed penalty;
 - (ii) the period for paying the fixed penalty;
 - (iii) the person to whom and the address at which—
 - (A) the fixed penalty may be paid, and

- (B) any correspondence relating to the fixed penalty notice maybe sent;
 - (iv) the method or methods by which payment may be made;
 - (v) the consequences of not making a payment within the period for paying the fixed penalty.
- (4) The Minister may extend the period for paying the fixed penalty in any particular case if it considers it appropriate to do so by sending notice to the person to whom the fixed penalty notice was given.
- (5) If in any particular case the Attorney General considers that a fixed penalty notice which has been given ought not to have been given, he may give to the person to whom the fixed penalty notice was given a notice withdrawing the fixed penalty notice; and where notice under this subsection is given—
 - (a) any amount which has been paid by way of fixed penalty in pursuance of the fixed penalty notice shall be repaid; and
 - (b) no proceedings shall be instituted or continued against that person for the offence in question.
- (6) In any proceedings, a certificate signed by or on behalf of the Minister and stating either—
 - (a) that payment of a fixed penalty was, or (as the case may be) was not, received on or before a date specified in the certificate, or
 - (b) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,shall be received as evidence of the matters so stated and shall be treated, without further proof, as being so signed unless the contrary is shown.

46 Amount of and period for paying a fixed penalty

- (1) The amount of a fixed penalty shall be [specify amount of method] in respect of the offences to which the fixed penalty notice relates.
- (2) The period for payment of the amount of a fixed penalty shall be 21 days beginning with the day after the day on which the notice is deemed to be served.

Schedule 1

Prescribed Fishing Vessels

[Specify fishing vessels to be subject to these Regulations should be defined, according to national fleet definitions and policy requirements].

**Schedule 2
Forms, etc.**

Form 1

Regulation Nos.

Fisheries Hygiene (Certification, Licensing and Control) Regulations

Application for a Licence to Operate a [select vessel type, if appropriate: e.g. Factory Vessel / Freezer Vessel / Carrier Vessel]

Application No. _____

Date of Application _____

Name of Vessel _____ Identification No./Mark: _____

Home Port of vessel _____

Name and Address of Operator of vessel _____

Type of vessel [e.g. carrier _____ freezer _____ factory _____]

Will persons sleep on vessel _____ No of persons _____

Describe facilities _____

Port of loading and off-loading of prescribed products _____

Port where prescribed products are to be inspected _____

Particulars of harvesting, handling or processing of prescribed products _____

Particulars of other operations likely to affect the harvesting, handling or processing of prescribed products on board _____

MISCELLANEOUS

Your application shall be accompanied by the following documents:-

Proof of ownership or base of vessel

The Public Health Certification of crew members.

HACCP Plan and relevant specifications of the vessel and equipment to be used thereon

Proof of registration under the [Fisheries Act]
The prescribed fees

Signature of Applicant _____

FOR OFFICIAL USE

Date Inspected _____

Result of Inspection _____

Document Received _____ Application Granted/Refused

Fee Received _____ If Granted: Licence No. _____

Operating Certificate No. _____

Dated Application Received _____ If refused reasons therefore _____

Fisheries Hygiene (Certification, Licensing and Control) Regulations

License to Operate [Carrier Vessel/Factory Vessel/Freezer Vessel]

License No. _____

(Name of Operator)

of _____

(Business Address of Operator)

is hereby licensed to operate a *[carrier vessel/factory vessel/freezer vessel] to the home port of which is:

Vessel Identification No./Mark _____

(Name of Home Port)

This license is valid for a period of _____ months, unless earlier suspended or revoked, and is not transferable.

The prescribed goods which may harvested and found on vessel [identification no./mark] pursuant to this license are-

This license is granted under the following condition(s)-

Breach of the Act or Regulations shall result in suspension or revocation.

Dated the _____ day of _____, 20_____

(Affix Stamp of Competent Authority)

Signed: _____

Director, Veterinary Services Division
Ministry of Agriculture

****Delete which is inapplicable***

Fisheries Hygiene (Certification, Licensing and Control) Regulations

Operating Certificate Pursuant to License

No. _____

This is to certify that _____

(Name of Operator)

of _____

(Business Address of Operator)

has been granted, on the _____ day of _____, 200 , a license No. _____ to operate a * carrier vessel/factory vessel freezer vessel for a period of _____ months, unless the licence is previously suspended or revoked.

Dated the _____ day of _____, 20

(Affix Stamp of Competent Authority)

Director, Veterinary Services
Division

**Delete which is inapplicable*

Schedule 3

Fees

[Licence application fees to be determined at the national level].

Schedule 4
Design and Construction of Licensed Vessels

Internal walls

- (3) Walls shall—
- (a) have smooth surfaces and be made of durable and impermeable material;
 - (b) be constructed of water-proof, non-absorbent and washable materials that are incapable of transmitting substances harmful to prescribed products;
 - (c) be sealed in all joints so that there can be no ingress of water, pests or contaminants;
 - (d) be light in colour and painted with an approved food grade paint;
 - (e) be impact resistant or protected from impact damage;
 - (f) be smooth and without crevices;
 - (g) be easy to clean or wash and disinfect;
 - (h) maintained in good condition.
- (4) In any area of a licensed processing establishment or licensed vessel where water or other liquid is regularly used, any angles between—
- (a) walls; or
 - (b) walls and floors,
- shall be sealed and covered to facilitate their cleaning.
- (5) Any walls or partitions that do not abut the ceiling shall be capped to prevent the accumulation of dust.
- (6) If a room, including a refrigeration facility, is built within a product handling area, any inaccessible cavity formed between the walls or ceilings of the inner and outer rooms shall be made pest-proof and dust-proof.

Floors

- (7) Floors, including any enclosed handling and processing area on the vessel, shall be—
- (a) water-proof;
 - (b) non-absorbent;
 - (c) without crevices;
 - (d) washable and of non-slip materials; and
 - (e) easy to clean and disinfect.

Floor drains

- (8) In any area of a licensed vessel where water or other liquid is regularly used—
- (a) floors shall slope sufficiently (at least 45°) for liquids to drain to trapped outlets; and
 - (b) floor drains shall be provided and be adequate in size, number and location to cope with the maximum flow of water under normal working conditions.
- (9) All drains shall—
- (a) be effectively sealed by a trap;
 - (b) where necessary, be adequately vented to the exterior of the licensed vessel; and

- (c) have adequate access for cleaning.
- (10) Solids traps installed in conjunction with floor drains shall be designed to enable adequate cleaning.
- (11) Floor drains shall not be connected to sanitary drainage so as to avoid the introduction of gases or noxious fumes into the processing area.
- (12) Where floor drains are connected to a storm water drainage system, they shall be designed and maintained to prevent or minimize the effects of flooding.
- (13) All open drains shall flow away from product handling areas.
- (14) Where there is insufficient provision made in product handling areas for the drainage of water the owner or operator of the licensed processing establishment or licensed vessel shall provide suitable equipment for the removal of the water.
- (15) The floor and walls of tanks used for the purification of live bivalve mollusc, echinoderms, tunicates and marine gastropods and any water storage containers shall have a smooth, hard and impermeable surface and be easy to clean by scrubbing or use of pressurized water.
- (16) The bases of purification tanks shall be—
 - (a) sufficiently sloped (at least 45°); and
 - (b) equipped with adequate drainage.

Ceilings

- (17) Ceilings shall be so designed and constructed as to
 - (a) be smooth and impervious to moisture;
 - (b) prevent accumulation of dirt;
 - (c) minimize condensation, the development of mould, and flaking; and
 - (d) be easy to clean.
- (18) The ceilings of product handling areas shall be—
 - (a) designed and constructed in accordance with paragraph (15);
 - (b) light in colour; and
 - (c) free of ledges which may collect dust.

Windows, Doors, External Walls and Vents

- (19) Subject to paragraph (18), the window of product handling areas shall not be capable of being opened.
- (20) Windows and vents which can be opened shall be fitted with insect-proof screens which are—
 - (a) easily removable for cleaning; and
 - (b) kept in good repair.
- (21) Doors and hatches shall—
 - (a) have smooth, non-absorbent surfaces;
 - (b) be close fitting;
 - (c) be impact resistant or protected from impact damage (including damage by pallets, forklifts and crates); and
 - (d) be of durable material and easy to clean.
- (22) Hatches, doors and other passage ways shall be constructed in such a manner as to prevent the entry of pests and one or more of the following shall be installed—

- (a) strip curtains;
 - (b) air curtains; or
 - (c) a self or manual closing device.
- (23) Airlocks shall be designed to minimize movement of air into or between product handling areas.
- (24) Any conveyors or chutes passing through external walls shall be designed, constructed and sealed so as to prevent entry of pests or dust into product handling areas.
- (25) If conveyors or chutes pass through external walls, the gaps through which they pass shall be sealed against the entry of pests or dust.

Stairs, Catwalks, Stands, Platforms, etc.

Stairs, catwalks, stands, platforms and ladders in product handling areas shall be—

- (a) constructed from material that is impervious, non-slip, non-corrodible, easy to clean and impact resistant; and
- (b) so situated and constructed as to prevent contaminants from falling into any prescribed product or onto processing equipment or packaging material.

Product handling areas

- (26) The area on any licensed vessel or the containers reserved for the storage of prescribed products shall—
- (a) not contain objects or products which may transmit harmful properties or abnormal characteristics to the products; and
 - (b) be designed so as to—
 - (i) allow easy cleaning; and
 - (ii) ensure that water resulting from melted ice does not remain in contact with any products.
 - (c) Sea water intakes for licensed vessels shall be located—
 - (i) forward of any toilet or bilge discharge; and
 - (ii) at not less than 5 metres from the surface.
- (27) Unloading and landing equipment shall be—
- (a) constructed of material, which is easy to clean and disinfect; and
 - (b) kept in a good state of repair and cleanliness.

Lighting on Vessels

- (28) The following requirements apply to every licensed vessel—
- (a) the product handling areas shall be adequately lit during loading, handling and offloading of prescribed products;
 - (b) the inspection area shall be lit during an inspection of prescribed products; and
 - (c) the deck shall be fitted with floodlights with adequate shielding in order to confine illumination to the working area of the vessel.

Refrigeration Facilities

- (29) Refrigerated holds and tanks of licensed vessels shall comply with these Regulations.

- (30) Hatches and hatch plugs shall be sealed to prevent leakage of cold air from the refrigerated hold and ingress of water into the refrigerated hold.

Chillers

- (31) Chilling on a licensed vessel shall be carried out in a—
- (a) chiller;
 - (b) chiller holds;
 - (c) refrigerated sea water tanks; or
 - (d) other suitable equipment.
- (32) Chiller capacity shall be sufficient to rapidly cool prescribed products from an ambient temperature to a chill temperature between -1°C to 3°C within six hours after loading and to GOC after sixteen hours and thereafter the products shall be so maintained.
- (33) The tank of licensed vessels equipped for the chilling of prescribed products in sea water chilled by ice or other means, shall—
- (a) be equipped with adequate sea water filling and drainage installations;
 - (b) incorporate devices for achieving uniform temperature throughout the tanks; and
 - (c) be capable of recording temperatures from a temperature sensor positioned in the section of the tank where temperatures are highest.

Freezers

- (34) A freezer on a licensed vessel shall be—
- (a) separate from any hold in which frozen prescribed products are stored; and
 - (b) provided with separate refrigeration.
- (35) A freezer located in a hold of a licensed vessel in which frozen prescribed products are stored shall be—
- (a) adequately capable of rapidly lowering the temperature of the prescribed products to achieve a core temperature between -18°C and -25°C ; and
 - (b) provided with doors or material that—
 - (i) ensure its efficiency when operating; and
 - (ii) effectively divide the freezer from the hold.
- (36) Plate freezers in freezer holds of licensed vessels shall be capable of reducing the temperature of prescribed products undergoing freezing to a temperature of -18°C or colder.

Cold Storages

- (37) Cold storages on licensed vessels shall be capable of storing frozen prescribed products at a temperature of -18°C or colder.
- (38) The holds, tanks and containers for the storage of prescribed products shall be separated from the machinery space and the quarters reserved for the crew by partitions which are impervious and are designed to prevent any contamination of prescribed products.
- (39) The interior surfaces of holds, tanks and containers on licensed vessels shall be—
- (a) waterproof, easy to wash and disinfect;
 - (b) smooth or smoothed and painted with an approved food-grade paint;
 - (c) maintained in good condition; and

- (d) incapable of transmitting substances harmful to the prescribed products.
- (40) Holds, tanks or containers used for the storage of prescribed products shall—
 - (a) be adequate to ensure their preservation under hygienic conditions and, in particular, allow for the unimpeded drainage of water;
 - (b) when used, be clean; and
 - (c) be designed to prevent contamination of the products by fuel used for the propulsion of the vessel or by bilge water, hydraulic oil or refrigeration gases.

Amenities

- (41) Staff assigned to the handling of prescribed products on licensed vessels shall maintain high standards of personal cleanliness.
- (42) Subject to paragraph (42), an operator shall ensure that the toilet and shower facilities provided on a licensed vessel are sufficient for the normal crew complement.
- (43) The ratio of toilets to the number of persons on board a licensed vessel shall be six to eight persons to one toilet.
- (44) Every operator shall provide—
 - (a) adequate facilities for the cleaning and disinfecting of hands;
 - (b) taps that are not hand operated in areas used for handling prescribed products;
 - (c) single use hand towels.
- (45) Every room on board a licensed vessel in which there is a toilet shall be equipped with a hand basin located therein or immediately outside the door.
- (46) A berth shall be available for the use by each member of the crew of the licensed vessel and an inspector, when aboard such vessel.
- (47) All equipment used for gutting, heading and the removal of fins and all containers and equipment with which prescribed products come in contact on board a licensed vessel, shall be made of or coated with a material which is waterproof, resistant to decay, smooth and easily cleaned and disinfected.

Minimum Requirements for Vessels Processing Prescribed Products within 0.5 Nautical Miles of Land

- (48) Licensed vessels within 0.5 nautical miles of land on which prescribed products are processed shall comply with the requirements of these Regulations with respect to—
 - (a) pest-proofing;
 - (b) dust-proofing;
 - (c) water supply;
 - (d) waste disposal; and
 - (e) amenities for crew.

Minimum Requirements for Carrier Vessels

- (49) Every carrier vessel shall be equipped with refrigerated or insulated containers for storage of prescribed products which shall—
 - (a) be insulated;
 - (b) be smooth, light-coloured and impact and abrasion resistant;
 - (c) have covered internal corners;

- (d) be of non-corrodible and non-toxic material;
 - (e) be covered and self-draining;
 - (f) be capable of holding an adequate supply of ice or have alternative means of cooling or chilling, as the circumstances may require;
 - (g) not be capable of transmitting any harmful properties or characteristics to prescribed products;
 - (h) be positioned to prevent contamination of the products by—
 - (i) fuel used for propulsion of the vessel;
 - (ii) oil;
 - (iii) fumes or other contaminants present or otherwise used on board; or
 - (iv) bilge water.
- (50) Choppers, knives and other tools used for post harvest handling of prescribed products on carrier vessels shall be—
- (a) clean and free of rust and corrosion; and
 - (b) cleaned and disinfected after every use.
- (51) Fishing and diving equipment used on carrier vessels for the handling of prescribed products shall be free of rust and corrosion.
- (52) All prescribed products placed on carrier vessels shall be protected from deterioration, contamination and the effects of sun and other sources of heat.

Minimum Requirements for Factory Vessels

- (53) There shall be a reception area on board every factory which shall be set aside for the loading of prescribed products.
- (54) The reception area referred to in paragraph (52) and any movable part thereof shall be—
- (a) designed and arranged into pounds or pens that are large enough to allow each catch to be separated;
 - (b) easy to clean;
 - (c) designed in such a manner as to protect the products from the sun or the elements and from any source of dirt or contamination.
- (55) The operator of every factory vessel shall implement a system that conforms with established rules of hygiene, for conveying prescribed products from the reception area to the work area.
- (56) Every factory vessel shall—
- (a) be equipped with work areas that are large enough for the preparation and processing of prescribed products in proper hygienic conditions;
 - (b) be designed and arranged in as to prevent any contamination of the products;
 - (c) be equipped with storage areas for prescribed products that are sufficiently enough;
 - (d) if a waste processing unit is operated on board, be equipped with a separate hold mist designed for the storage of the waste;
 - (e) be equipped with a place for storing packaging materials that is separate from the place where prescribed products are prepared and processed;
 - (f) be equipped with special equipment for pumping waste or prescribed products that are unfit for human consumption directly into the sea, or where circumstances so require, into a watertight tank reserved for that purpose;

- (g) if waste is stored and processed on board with a view to cleaning, be equipped with separate areas for that purpose;
 - (h) be fitted with equipment for providing a supply of potable water.
- (57) The sea water intake on a factory vessel shall be so situated that the water being taken in shall not be affected by any discharge into the sea of .waste water, waste or engine coolant.

Sanitary conveniences

- (58) Every factory vessel shall contain a suitable number of changing rooms, wash basins and toilets.
- (59) Toilets on a factory vessel shall not open directly into areas where prescribed products are handled.
- (60) Wash basins shall be equipped with appliances for the washing and drying of hands.
- (61) Wash basins taps shall be non-hand-operated.

Floors and fixtures

- (62) A non-slip floor shall be installed in every factory vessel and shall be—
 - (a) easy to clean and disinfect; and
 - (b) equipped for easy drainage of water.
- (63) The structures and fixtures of every factory vessel shall contain limber holds that are large enough to prevent obstruction by product waste and to allow for the free drainage of water.
- (64) The operator shall ensure that the walls and ceilings of the factory vessel are easy to clean, particularly in areas where there are pipes, chains or electricity conduits.
- (65) Hydraulic circuits on a factory vessel shall be arranged or protected in such a manner as to ensure that there is no leakage of oil to contaminate prescribed products.
- (66) Every factory vessel shall be equipped with adequate lighting and shall be adequately ventilated and, where necessary, proper vapour extraction units shall be installed therein.
- (67) The operator shall ensure that—
 - (a) the vessel is equipped with—
 - (i) appliances for cleaning-and disinfecting tools, equipment and fittings;
 - (ii) taps that are not hand operable and with single use towels;
 - (b) all cutting benches, containers, conveyors, gutting or filleting machines and other equipment and tools are resistant to corrosion, easy to clean and disinfect and properly maintained.

Refrigeration plants

- (68) Refrigeration plants on factory vessels shall be sufficiently powerful to—
 - (a) lower the temperature rapidly so as to achieve a core temperature of 18°C to -25°C;
 - (b) keep prescribed products in the storage holds at a temperature of 18°C.

Storage holds

- (69) Storage holds shall be equipped with a temperature recording system which shall be so placed that it can be easily read.

Schedule 5
Sanitary Operational Requirements for Licensed Vessels

Supply of water

- (70) Potable water shall be used in every licensed vessel—
- (a) with adequate pressure and in sufficient quantity;
 - (b) at a suitable temperature and suitably distributed; and
 - (c) if used in a product handling area and on prescribed products, conform to the parameters and parametric values set out in the Appendix to this Schedule.
- (71) The parameters and parametric values set out in the Appendix to this Schedule shall be complied with—
- (a) in the case of water supplied from a public or private supply system, at the point at which it emerges from the taps;
 - (b) in the case of water supplied from a tanker, at the point at which it emerges from the tanker; and
 - (c) in the case of water used in a licensed vessel, at the point where the water is used in the undertaking.
- (72) Where water is chlorinated in a licensed vessel—
- (a) the chlorine shall be added by the dosing or injection method for at least 30 minutes; and
 - (b) records of the residual chlorine level shall be maintained.
- (73) Prescribed products shall not be washed, dipped, glazed or treated with water the chlorine content of which exceeds the levels permitted for potable water.
- (74) Ice used in the handling or preservation of prescribed products shall be made from potable water and shall be manufactured, handled and stored in a manner that will protect it from contamination.
- (75) The competent authority shall ensure that any supply of water intended for use in the processing of prescribed products which constitutes a potential risk to the wholesomeness of such product is prohibited.

Use of non-potable water

- (76) Non-potable water—
- (a) may be used on a licensed vessel for steam production, refrigeration and the cooling of refrigeration equipment, fire control and other similar purposes not connected with the processing of prescribed products; and
 - (b) where used, shall be carried in separate and identifiable lines.
- (77) The operator of vessel shall ensure that—
- (a) non-potable water is conveyed without causing cross-connection with, or back-siphonage into, any system carrying potable water or clean sea water; and
 - (b) the use of non-potable water does not present a risk of contamination to prescribed products.
- (78) All outlets and distribution lines for non-potable water areas shall be clearly identified in the plan referred to in regulation 15(1)(c).

- (79) Where appropriate, clean sea water may be used in product handling areas.
- (80) Clean sea water shall be supplied through a pump used only for the purpose or as an emergency pump and shall be extracted, not less than five metres below the surface.
- (81) All storage tanks, cooling towers and pipelines used in handling water on a licensed vessel shall be constructed in such manner as to facilitate their easy inspection and cleaning.
- (82) All water storage tanks on a licensed vessel shall be effectively covered to prevent the entry of pests and potential contaminants.

Disinfection

- (83) Every operator shall take such measures as are necessary to ensure that, where disinfection forms part of the preparation or distribution of water intended for use in the processing of prescribed products the efficiency of the disinfection treatment applied is verified, and that any contamination from disinfection by-products is kept as low as possible without compromising the disinfection.

Prevention of water contamination

- (84) Every operator shall take such measures as are necessary to ensure that no article used during the installation of any distribution system or equipment for the preparation or distribution of water intended for the processing of prescribed products or impurities associated with such articles remain in concentrations higher than is necessary for the purpose of their use and do not, either directly or indirectly, reduce the wholesomeness of any prescribed product.

Steam

- (85) Steam used in direct contact with prescribed products or a contact surface on a licensed vessel shall not contain any substance which may—
 - (a) be hazardous to health; or
 - (b) contaminate the products.

Compressed air and other gasses

- (86) Compressed air or any other processing gases that come directly or indirectly into contact with prescribed products shall—
 - (a) in the case of compressed air, be fitted with a filtered air intake located in a clean place;
 - (b) contain no oil or other substances hazardous to health; and
 - (c) not contaminate the prescribed products.

Appendix: Parameters and Parametric Values for Water

[To be inserted at the national level]

Schedule 6
Fixed Penalty Notice

FIXED PENALTY NOTICE

Pursuant to section 45 of the Fish Inspection Regulations [2017]
[insert name of principal Act, if required]

To: _____ of _____

Place of Offence:

Date of Offence:

Time of Offence:

FIXED PENALTY: \$ _____.

YOU ARE HEREBY CHARGED as follows:

Statement of Offence: _____

contrary to _____

Maximum penalty: _____.

Particulars of Offence: _____

TAKE NOTICE that if, not later than 21 days from the date hereof, payment of the fixed penalty specified above is received as specified below by the Director of Veterinary Services, all liability in respect of the offence will be discharged and no further action will be taken.

HOWEVER, if the fixed penalty is not paid within the specified time you will be required to attend court to answer the charges set out above.

UNLESS-

- (a) You admit the offence and plead guilty in writing; OR
- (b) An appearance is made on your behalf by a barrister and solicitor, in which case your personal attendance will be excused and the case will be disposed off in your absence.*

NOTICE: In case of default in payment within the time specified in the notice, the court may, if the person is found guilty by the court, impose a penalty which is more than the fixed penalty for the offence.

Signed.....
Authorised officer

Designation:
Date: _____

**see back of form for affidavit of Service*

AFFIDAVIT OF SERVICE
(To be completed in all cases)

I, _____ as the authorised officer whose signature appears at the foot of the Fixed Penalty Notice above, make oath and say that, on the _____ day of _____ at _____ I did serve upon the accused person specified therein.

A true copy of that Fixed Penalty Notice.

Sworn by the above named Authorised Officer at this ___ day of _____

Before: _____
Justice of Peace or Commissioner of Oaths

Authorised Officer

WRITTEN PLEA OF GUILTY

I, _____ being the person named above hereby
enter a plea of guilty to the charge specified

Signed _____ Date: _____

**ANNEX C (III):
AQUATIC ANIMAL HEALTH
REGULATIONS [2017]**

Aquatic Animal Health Regulations [2017]

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[Enabling powers, etc.]

Part 1
Preliminary

1 Citation and commencement

These Regulations may be cited as the Aquatic Animal Health Regulations [2017] and come into force on [insert date and/or procedure].

2 Interpretation

(1) In these Regulations—

- (a) words and expressions defined in section 2 of the Act have the meaning given in that Act;
- (b) “the Act” means the [CARICOM Model Animal Health Act]; and
- (c) unless the context otherwise requires—

[“aquaculture” means the rearing or cultivation of aquatic organisms using techniques designed to increase the production of those organisms beyond the natural capacity of the environment and where the organisms remain the property of one or more natural or legal persons throughout the rearing or culture stages, up to and including harvesting;]

“aquaculture animal” means any aquatic animal at all its life stages, including eggs and sperm/gametes, reared in a farm or farming area, including any aquatic animal from the wild intended for a farm or farming area;

“aquatic animal” means all life stages (including *eggs* and *gametes*) of fish, molluscs, crustaceans and amphibians originating from *aquaculture establishments* or removed from the wild, for farming purposes, for release into the environment, for human consumption or for ornamental purposes;

“aquatic animal health professional” means a person who, for the purposes of these Regulations, is authorised by the Chief Veterinary Officer to carry out certain designated tasks and has appropriate qualifications and training to perform those tasks;

“aquaculture establishment” means an aquaculture production business or a processing establishment;

“aquaculture product” means a product derived from aquaculture animals;

“aquaculture production business” means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to the rearing, keeping or cultivation of aquaculture animals;

“authorisation” means an authorisation granted under these Regulations;

“Authority” means the Veterinary Authority established under section 4 of the Act;

“farm” means any premises, enclosed area, or installation operated by an aquaculture production business in which aquaculture animals are reared with a view to their being placed on the market, with the exception of those where wild aquatic animals harvested or caught for the purpose of human consumption are temporarily kept awaiting slaughter without being fed;

“farming area” means a production area or relaying area in which all aquaculture production businesses operate under a common biosecurity system;

“restocking” means the release of aquaculture animals into the wild

“listed disease” means—

(a) a notifiable disease [refer to national Act]; or

(b) a disease listed in Schedule 1;

“non-commercial” in relation to an installation, aquarium or other facility means an installation, aquarium or other facility in which aquatic animals are kept with no intention of placing them on the market;

“notice” means notice in writing;

“premises” includes any land or place and, in particular, includes—

(a) any vehicle, vessel or other means of transport;

(b) any installation, container or receptacle;

“processing establishment” means any food business which is approved for processing aquaculture animals for food purposes pursuant to section 27 of the [CARICOM Model Food Safety Act] and which processes aquaculture animals for disease control purposes under Part 4 of these Regulations;

“veterinary inspector” means a veterinary inspector appointed under section 8 of the Act;

3 Application

These Regulations do not apply to—

(a) any ornamental aquatic animal reared in a non-commercial aquarium;

(b) any wild aquatic animal harvested or caught for the purpose of direct entry into the food chain other than one which is to be treated as an aquaculture animal under regulation 21(3);

(c) any aquatic animal caught for the purpose of the production of fishmeal, fish feed, fish oil or any similar product.

Part 2

Registration Requirements

4 Requirement for registration

(1) Subject to paragraph (2), no person shall operate, or cause or permit another person to operate, an aquaculture establishment unless—

(a) the establishment is registered with the Authority in accordance with regulation 5;

(b) the establishment is operated in accordance with that registration.

5 Application for registration

- (1) Any person who wishes to register an aquaculture establishment shall—
 - (a) apply to the Chief Veterinary Officer using Form 1 set out in Schedule 1; and
 - (b) pay the fee specified in Schedule 2.
- (2) The application shall be accompanied by such information or supporting documents that the Chief Veterinary Officer may require.
- (3) The Authority shall carry out an inspection of the premises indicated in the application, and shall evaluate the application on the basis of the criteria established in these Regulations.

6 Registration

- (1) Where an application made under regulation 5(1)—
 - (a) relates to a commercial establishment, the Chief Veterinary Officer shall register the establishment if he is satisfied that—
 - (i) the premises are fit and proper for such purposes;
 - (ii) the operation of the aquaculture production business or the processing establishment will not lead to an unacceptable risk of spreading disease;
 - (iii) the premises have been duly inspected by a veterinary inspector; and
 - (iv) the applicant has paid the fee specified in Schedule 2; and
 - (b) relates to a non-commercial establishment, the Chief Veterinary Officer shall register the establishment if he is satisfied that—
 - (i) the premises are fit and proper for such purposes;
 - (ii) the premises have been duly inspected by a veterinary inspector; and
 - (iii) [the applicant has paid the fee specified in Schedule 2].
- (2) Where the Chief Veterinary Officer registers an establishment under paragraph (1), he shall—
 - (a) assign to it a unique identification number; and
 - (b) issue to the applicant a certificate in the form set out in Schedule 1.
- (3) The certificate shall specify—
 - (a) the address of the aquaculture production business or the processing establishment to which the authorisation relates;
 - (b) the name of the operator;
 - (c) the purpose for which it is granted;
 - (d) the duration of the authorisation;
 - (e) any condition to which it is subject; and
 - (f) the authorisation number assigned to the business or establishment.
- (4) When making an application under regulation 5(1), the burden is on the applicant to prove that the establishment is a non-commercial establishment and shall otherwise be deemed to be a commercial establishment.

7 Conditions of registration

- (1) Where the Chief Veterinary Officer grants a registration certificate, other than to an establishment referred to in paragraphs (2) or (3), it shall be a condition of the registration that the operator of the establishment—
 - (a) keep a record of—

- (i) the movement of any aquaculture animal and any aquaculture product into and out of the premises of the business;
 - (ii) the mortality in each epidemiological unit within the premises, as is relevant for the type of production carried on by the business;
 - (iii) the results of any surveillance carried out by the operator of the business; and
 - (iv) the results of any surveillance carried out by a veterinary inspector which have been notified to the business,
- (b) implement good hygiene practice;
 - (c) comply with any surveillance requirement; and
 - (d) have a system in place which enables the operator to demonstrate to the Department that the requirements of sub-paragraphs (a) to (c) are being met.
- (2) Where the Chief Veterinary Officer grants a registration certificate in relation to a processing establishment, it shall be a condition of the registration that the operator of the establishment—
- (a) keep a record of the movement of any aquaculture animal and any aquaculture product into and out of the premises of the business;
 - (b) implement good hygiene practice; and
 - (c) have a system in place which enables the operator to demonstrate to a veterinary inspector that the requirements of sub-paragraphs (a) and (b) are being met.
- (3) Where the Chief Veterinary Officer grants a registration certificate in relation to a non-commercial establishment, it shall be a condition of the registration that the operator of the establishment—
- (a) keep a record of the movement of any aquaculture animal and any aquaculture product into and out of the establishment;
 - (b) implement good hygiene practice;
 - (c) comply with any surveillance requirement; and
 - (d) have a system in place which enables the operator to demonstrate to the Department that the requirements of sub-paragraphs (a) and (b) are being met.
- (4) The Chief Veterinary Officer may attach to a registration certificate any specific conditions as he may think fit in order to ensure the proper functioning of the premises in accordance with the Act and these Regulations.

8 Duration of certificates

A certificate granted under these Regulations is valid for 1 year from its date of issue unless it is revoked earlier under regulation 10 or by a court.

9 Refusal to grant a certificate

- (1) The Chief Veterinary Officer may refuse to grant a certificate if satisfied that the applicant—
- (a) has failed to meet any of the conditions specified for the grant of such certificate under these Regulations; or
 - (b) is not a fit and proper person to hold a certificate.
- (2) Where the Chief Veterinary Officer refuses to grant a certificate, or grants it subject to any condition other than a condition imposed under regulation 7, he shall notify the applicant in writing of—
- (a) the reasons for the refusal or the imposition of the condition; and

- (b) the applicant's right of appeal under [the Act] [regulation 0].
- (3) For the purpose of determining whether an applicant is a fit and proper person, under paragraph (1)(b), the Chief Veterinary Officer may, without limitation, take account of the applicant's history of compliance with animal health regulations or any other laws relating to animal welfare, food safety, agriculture, public health or public safety.

10 Suspension or revocation of a certificate

- (1) The Chief Veterinary Officer may, by notice in writing, suspend or revoke a certificate if satisfied that—
 - (a) the holder of the certificate has not complied with, is not complying with or is not likely to comply with any condition of the certificate or with any provision of the Act or these Regulations;
 - (b) the aquaculture production business or processing establishment is no longer operated for the purpose for which the authorisation was granted or has ceased to operate; or
 - (c) it is necessary to revoke the authorisation to prevent or limit the risk of the spread of disease.
- (2) Written notice under this regulation must—
 - (a) give reasons for the suspension or revocation;
 - (b) state when the suspension or revocation comes into effect and, in the case of suspension, state on what date or event it is to cease to have effect; and
 - (c) give details of the right of appeal against the decision.
- (3) Any person whose certificate is suspended or revoked must, whether or not that suspension or revocation is the subject of an appeal pursuant to [the Act] [regulation 0], surrender it to the competent authority within 14 days of receipt of the notice informing that person of the suspension or revocation.

11 Modification of a certificate

- (1) The Chief Veterinary Officer may—
 - (a) on his own initiative; or
 - (b) on the application of the operator of an animal establishment, modify a certificate, including any condition of a certificate.
- (2) An application under paragraph (1)(b) shall be—
 - (a) made on a form provided by the Chief Veterinary Officer for the purpose;
 - (b) be accompanied by such information in such form as the Chief Veterinary Officer may reasonably require and
 - (c) be accompanied by the fee specified in Schedule 2.
- (3) Where the Chief Veterinary Officer modifies a certificate under paragraph (1) or, in the case of an application under paragraph (1)(b), refuses to grant the modification, it shall, by notice served on the operator—
 - (a) specify the amendment and state the date on which it is to take effect or, in the case of a refusal, state its decision not to grant the application;
 - (b) give the reasons for the amendment or the refusal; and
 - (c) inform the operator of the right of appeal under [the Act] [regulation 0].

12 Surrender of certificate

- (1) A certificate may be surrendered by the operator of an aquaculture establishment to the Authority in accordance with this regulation.
- (2) An authorisation may only be surrendered if the Chief Veterinary Officer accepts it.
- (3) Where a person desires to surrender a certificate, he shall make an application to the Chief Veterinary Officer on a form provided by the Chief Veterinary Officer for the purpose and accompanied by such information in such form as the Chief Veterinary Officer may reasonably require.
- (4) On receiving an application under paragraph (3), the Chief Veterinary Officer shall determine whether the cessation of the operation to which the certificate relates is likely to lead to an unacceptable risk of spreading disease.
- (5) Before accepting the surrender of a certificate the Chief Veterinary Officer—
 - (a) shall inspect, or arrange to have inspected, the operation to which the certificate relates; and
 - (b) may require the operator to carry out such works or do such things as may be specified in a notice served on the operator.
- (6) If the Chief Veterinary Officer is satisfied that the cessation of the operation to which the certificate relates is not likely to lead to an unacceptable risk of spreading disease, the Chief Veterinary Officer shall accept the surrender of the certificate; but otherwise the Chief Veterinary Officer shall refuse to accept it.
- (7) Where the surrender of a certificate is accepted, the Chief Veterinary Officer shall issue to the operator, with the notice of its decision, a certificate stating that it is satisfied as mentioned in paragraph (6) and, on the issue of that certificate, the authorisation shall cease to have effect.
- (8) Where the surrender of a certificate is refused, the Chief Veterinary Officer shall give notice of its decision to the operator in which it shall—
 - (a) give the reasons for the refusal; and
 - (b) inform the operator of the right of appeal under [the Act] [regulation 0].

13 Public register of aquaculture establishments

- (1) The Chief Veterinary Officer shall establish and maintain a register of—
 - (a) aquaculture production businesses authorised under this Part; and
 - (b) processing establishments authorised under this Part.
- (2) In the case of an aquaculture production business, the register shall contain the information specified in Part I of Schedule 3.
- (3) In the case of a processing establishment, the register shall contain the information specified in Part II of Schedule 3.
- (4) The Chief Veterinary Officer shall—
 - (a) make the register available for inspection by the public free of charge at all reasonable times and at such place as may be determined by the Chief Veterinary Officer; and
 - (b) afford members of the public reasonable facilities for obtaining from the Chief Veterinary Officer, on payment of reasonable charges, a copy of any entry in the register.

Part 3

Production, Marketing, Imports and Exports

14 General health requirements

- (1) It is an offence for a person to place on the market any aquaculture animal or any aquaculture product if the person doing so knows or suspects, or ought to know or suspect, that it would pose a risk of spreading disease to any aquatic animal.
- (2) It is an offence for a person to place on the market any aquaculture animal for farming unless the animal—
 - (a) is clinically healthy; and
 - (b) subject to paragraph (4), comes from a farm or farming area where there is no unresolved increased mortality.
- (3) It is an offence for a person to release any aquaculture animal into the wild or into a recreational fishery unless the animal—
 - (a) is clinically healthy;
 - (b) subject to paragraph (4), comes from a farm or farming area where there is no unresolved increased mortality; and
 - (c) if it is of a species susceptible to a disease listed in Schedule 4, or is a vector for that disease, comes from a country, zone or compartment which has, in relation to that disease, disease-free health status.
- (4) Paragraphs (2)(b) and 3(b) do not apply where—
 - (a) the aquaculture animal comes from a part of the farm or farming area which is independent of the epidemiological unit in which the increased mortality has occurred; and
 - (b) the placing on the market or release of the animal is under, and in accordance with the conditions of, the written authority of the Chief Veterinary Officer.
- (5) It is an offence for a person to place on the market any ornamental aquatic animal if the person doing so knows or suspects, or ought to know or suspect, that it would pose a risk of spreading disease to any aquatic animal.
- (6) It is an offence for a person to release any ornamental aquatic animal into a farm, farming area, relaying area, recreational fishery or into the wild, except under, and in accordance with the conditions of, the written authority of the Chief Veterinary Officer.
- (7) It is an offence for a person to place on the market for farming or restocking any aquaculture animal intended for destruction or slaughter in accordance with disease control measures under Part 4 of these Regulations.

15 Identification of aquaculture animals and aquaculture products

- (1) No person shall dispatch aquaculture animals or aquaculture products unless information is provided in accordance with paragraph (2) which—
 - (a) identifies the consignment;
 - (b) enables the farm of origin or, in the case of aquaculture animals or aquaculture products from the wild, the place of origin to be traced; and
 - (c) enables the contents of the consignment to be linked to the movement document relating to the consignment, where a movement document is required by these Regulations.

- (2) The information referred to in paragraph (1) shall be provided on the container for the consignment, on a label fixed to the container or on a corresponding document.

16 Additional requirements when importing aquatic animals

- (1) In addition to other animal health requirements that are applicable to a person importing aquatic animals or aquatic animal products, a person importing aquatic animals or aquatic animal products shall—
- (a) handle such animals and products and transport water from the imported consignments to avoid contamination of natural waters in [country name];
 - (b) not release any animals into the wild, unless authorised in writing by the Chief Veterinary Officer.
- (2) The Chief Veterinary Officer may only grant an authorisation pursuant to paragraph (1)(b) where the release does not appear to him to jeopardise the health status of the aquatic animals at the place of release and on condition that appropriate risk-mitigating measures are taken.

17 Disease prevention requirements in respect of transport

- (1) It is an offence for a person to transport any aquaculture animal unless the requirements in paragraph (2) are met.
- (2) The requirements are—
- (a) the duration of the journey shall be as short as reasonably possible;
 - (b) the means of transport shall have been cleaned and disinfected before the aquaculture animal is loaded;
 - (c) if the aquaculture animal is transported overland in water—
 - (i) it shall be transported in such a manner that the water cannot escape from the means of transport; and
 - (ii) any water exchange shall be carried out only at a water station approved by the Chief Veterinary Officer; and
 - (d) the conditions of transport shall not jeopardise the health status of—
 - (i) the aquaculture animal being transported;
 - (ii) any aquatic animal at any place of transit; or
 - (iii) any aquatic animal at the place of destination.

18 Recording of information in respect of transport

- (1) It is an offence for a person who transports any aquaculture animal to fail to keep a record of the information set out in paragraph (2) for a period of four years beginning with the date on which the aquaculture animal arrived at its place of destination.
- (2) The information is—
- (a) the mortality of any animal in the course of transport;
 - (b) every farm, farming area, relaying area, dispatch centre, purification centre, recreational fishery, non-commercial installation, ornamental facility or processing establishment which is visited in the course of the transport;
 - (c) any water exchange carried out in the course of transport;
 - (d) the source of any water used in the course of transport; and
 - (e) the location at which any water from the means of transport is discharged.

- (3) The Chief Veterinary Officer may specify the form and manner in which the information set out in paragraph (2) shall be recorded.
- (4) It is a defence for a person charged with an offence under paragraph (1) in relation to the information set out in paragraph 2(a) to show that it was not practicable to keep such a record.

19 Exemption for transport in small containers

Regulations 17 and 18 do not apply where the transport is by means of a container which—

- (a) is watertight and airtight;
- (b) does not exceed one cubic metre; and
- (c) is accompanied by a legible label fixed to the exterior of the container which identifies its contents, their place of origin and their place of destination.

20 Aquatic animals requiring a health certificate for imports

- (1) No person shall import an aquatic animal if it is of a species susceptible to a disease listed in Schedule 4, or is a vector for that disease, unless—
 - (a) the aquatic animal comes from a country, zone or compartment which has, in relation to diseases to which that aquatic animal is susceptible, disease-free health status; or
 - (b) has undergone inspection at the point of entry and has been confirmed to be disease free; and
 - (c) in either case, is accompanied by and imported in accordance with an import permit issued under [animal health import regulations].

21 Importation of carcasses and offal

No person shall import into [country name], except in accordance with a with an import permit issued under [animal health import regulations]—

- (a) the carcass or a part of the carcass of a finfish listed in Schedule 4 for use as bait, for use in feeding to, or manufacturing feed for aquatic animals, for research or diagnosis or, if the carcass has not been eviscerated, for any purpose that will produce offal or effluent containing anything from the finfish;
- (b) the carcass or a part of the carcass of a mollusc listed in Schedule 4, for use as bait, for use in feeding to, or manufacturing feed for aquatic animals, for research or diagnosis, or for any purpose that will produce offal or effluent containing anything from the mollusc;
- (c) the carcass or a part of the carcass of a crustacean listed in Schedule 4, for use as bait, for use in feeding to, or manufacturing feed for aquatic animals, for research or diagnosis, or for any purpose that will produce offal or effluent containing anything from the crustacean; or
- (d) offal from a finfish, mollusc or crustacean listed in Schedule 4, for use as bait, for use in feeding to, or manufacturing feed for aquatic animals, for research or diagnosis, or for any purpose that will produce effluent containing anything from that offal.

22 Aquatic animals for personal use

- (1) Despite regulation 20, an aquatic animal [listed in Schedule 4] may be imported without a permit if—
 - (a) the aquatic animal is imported by a person for his personal use;

- (b) the person brings the aquatic animal into [country name] or picks it up at the point of entry into [country name]; and
- (c) the person presents, to the veterinary inspector, proof of his or her identity and proof of the manner in which he or she acquired the aquatic animal.

23 Aquatic animals not listed in Schedule 4

No person shall import an aquatic animal that is not listed in Schedule 4 unless it is accompanied by a document that is satisfactory to a veterinary inspector and that includes the following information—

- (a) the name and address of the exporter;
- (b) the name and address of the importer;
- (c) the taxonomic name of the aquatic animal, the life stage, and the number being imported, if more than one; and
- (d) the country in which the aquatic animal was born or where the germplasm came from and, in the case of an aquatic animal, whether it was born in captivity or in the wild.

24 Quarantine

- (1) Where any aquaculture animal imported into [country name] is intended for quarantine, it is an offence for the person importing the animal to fail to transport it directly to a quarantine station.
- (2) Where quarantine is a condition for the placing on the market of any aquaculture animal, it is an offence for the operator of a quarantine station to release the animal from quarantine without the prior written consent of a veterinary inspector.

25 Requirements for export – general

No person shall export any aquatic animal or aquatic product unless the animal or product—

- (a) satisfies the animal health requirements of the State of destination;
- (b) comes from a registered animal establishment;
- (c) can be identified in accordance with the requirements of the [Identification/Traceability Regulations]; and
- (d) is registered in such a way that the original animal establishment can be traced.

26 Certificates for export or re-export

- (1) A person who intends exporting or re-exporting any aquatic animal or aquatic product may apply to the Chief Veterinary Officer, in such form and manner as he may specify, for a certificate under this regulation [or general animal health export regulations].
- (2) Where the Chief Veterinary Officer has received an application, made in accordance with paragraph (1), an animal health inspector shall—
 - (a) carry out any of services which he considers necessary to allow him to issue the certificate; and
 - (b) if he is satisfied that a certificate should be issued, issue the certificate on behalf of the Chief Veterinary Officer upon payment of the fee specified in Schedule 2.

Part 4

Aquatic Animal Disease Control

27 Notification obligation

- (1) A relevant person who knows or suspects that—
 - (a) a published notifiable disease is present in any aquatic animal must notify a veterinary inspector or the Chief Veterinary Officer immediately of that knowledge or suspicion;
 - (b) increased mortality has occurred or is occurring in aquatic animals must immediately notify a veterinary inspector or the Chief Veterinary Officer of that knowledge or suspicion.
- (2) In this regulation a “relevant person” means—
 - (a) the owner of, or any person attending, any aquatic animal;
 - (b) any person accompanying any aquaculture animal during transport;
 - (c) any professional person involved in aquatic animal health services;
 - (d) any veterinarian or senior member of staff of any laboratory; or
 - (e) any other person with an occupational relationship to aquatic animals of susceptible species or to the products of such animals, including any veterinary officer.
- (3) Unless the knowledge or suspicion was reported by a veterinary inspector, a veterinary inspector shall determine whether a zone is infected or a disease poses a serious threat to animal or human health in any zone, either on the basis of the notification under paragraph (1) alone or following further investigations.

28 Eradication areas

- (1) [Every land area and the territorial sea [and contiguous zone]] or [The provinces, territories and areas specified in Schedule X] taken together, is established as an eradication area in which—
 - (a) any fish, mollusc or crustacean [listed in Schedule Y] may be inspected, segregated and tested for any disease listed in Schedule 4; and
 - (b) disease eradication programs may be instituted for preventing the spread of any such diseases.
- (2) Every person having the possession, care or control of an aquatic animal in an eradication area shall, when requested by a veterinary inspector permit tests for any of the diseases listed in Schedule 4 to be conducted on the aquatic animal.

29 Containment zones and free zones

- (1) The Minister may declare an eradication area, or a part of one, to be an containment zone with respect to any of the diseases listed in Schedule 4 if the disease has been identified in the eradication area, or part of it, and may designate the aquatic animals susceptible to that disease, unless—
 - (a) the—
 - (i) infected animals and any things that have been exposed to the disease have been treated or disposed of in a manner that satisfies a veterinary inspector that the disease has been eliminated from the eradication area or part of it; and
 - (ii) result of an epidemiological examination satisfies the veterinary inspector that the disease has been eradicated from the eradication area or part of it; or

- (b) the animals or disease are located in a containment facility.
- (2) The Minister may declare an eradication area, or a part of one, to be a free zone with respect to any of the diseases of aquatic animals listed in Schedule 4 if he is satisfied that—
 - (a) the eradication area, or part of it, is free of that disease, based on one or more of the following factors—
 - (i) the amount of time since the disease was last identified in the area or part of it;
 - (ii) the examination of all suspected outbreaks and the decision by the veterinary inspector that the disease is not present;
 - (iii) the actions taken to eradicate the disease, if it was identified, and the success of those actions, based on the factors set out in paragraphs (1)(a) and (b);
 - (iv) the disease detection activities are sufficient to detect the presence of the disease;
 - (v) the measures taken to prevent the introduction of the disease into the eradication area, or part of it, and the ability to enforce those measures;
 - (vi) the physical barriers to the spread of the disease;
 - (vii) any other scientific information relevant to the disease, and
 - (viii) the separation of the free area, or part of it, from any infected area by a buffer area; and
 - (b) disease detection activities sufficient to detect the presence of the disease are maintained while the declaration is in effect.
- (3) The Minister may declare an eradication area, or a part of one, to be a buffer zone for any of the diseases listed in Schedule 4 if he or she is satisfied that even though the disease has not been detected within the eradication area, or part of it, that area or part of it is at risk of becoming infected, because of its epidemiological relationship to an infected area.
- (4) The Minister may declare an eradication area, or a part of one, to be a provisionally free zone for any of the diseases listed in Schedule 4 if the eradication area or part of it is not an containment zone, free zone or buffer zone.
- (5) Any declaration under this section shall include a description of the eradication area, or part of it, the name of the disease on which the declaration is based and the list of the species of aquatic animals and carcasses or parts of carcasses of those aquatic animals that are susceptible to that disease.

30 Movement of aquatic animals

- (1) No person shall move, or cause to be moved, an aquatic animal [specified in schedule Y] from an eradication area, or a part of one, that has been declared a containment zone, to a free zone, buffer zone or provisionally free zone for that disease, except in accordance with a movement permit issued under regulation 31.
- (2) If, in the opinion of the Chief Veterinary Officer, an aquatic animal is moved into an area in violation of paragraph (1), the Chief Veterinary Officer may order that the aquatic animal be taken back without delay to the area from which it was moved.

31 Movement permit

- (1) An application for a movement permit under this Regulation may be made to any veterinary inspector in a form and made in such manner approved by the Chief Veterinary Officer.
- (2) A veterinary inspector may issue a movement permit if satisfied that the proposed movement would not, or would not be likely to, result in the spread within [country name], of a vector or disease.

- (3) A movement permit issued under paragraph (2) may contain such conditions as the veterinary inspector considers necessary.
- (4) The Chief Veterinary Officer may cancel or suspend a movement permit issued under paragraph (2) if he has reason to believe that—
 - (a) any condition under which the permit was issued or any condition contained in the permit has not been complied with;
 - (b) any provision of the Act or these Regulations has not been complied with; or
 - (c) failure to do so could result in the spread of a vector or disease.

32 Production of permit and documents

- (1) Any person moving any aquatic animal under a movement permit granted under regulation 31 shall—
 - (a) keep the permit or a copy of it with that person at all times during the permitted movement;
 - (b) on demand by a veterinary inspector, produce the permit or copy and allow a copy or extract to be taken;
 - (c) carry, at all times during the movement, a consignment note that contains details of—
 - (i) what is being transported, including the quantity,
 - (ii) the date of the movement,
 - (iii) the name of the consignor,
 - (iv) the address of the premises from which the movement started,
 - (v) the name of the consignee,
 - (vi) the address of the premises of destination; and
 - (d) on demand by a veterinary inspector, produce the consignment note and allow a copy or extract to be taken.
- (2) It is an offence for a person to fail to comply with paragraph (1) or (2).

33 Marking of aquatic animals

If an aquatic animal is tested for a disease listed in Schedule 4 and the animal reacts positively to the test, the owner of the animal shall ensure that it is marked with an identifier appropriate to the species or that its container is identified as containing an infected animal.

34 Disease outbreak

- (1) Where a veterinary inspector reasonably suspects—
 - (a) on the basis of any information or knowledge that he acquires in the course of his duties; or
 - (b) on the basis of any formal notification made to him, another veterinary inspector or the Chief Veterinary Officer pursuant to the Act or any Regulations made under it,that an animal establishment or any other area is infected or a disease poses a serious threat to animal or human health, he shall designate a provisional infected zone under section 12(1) of the Act.
- (2) The designation under section 12(1) of the Act shall be achieved by means of a general notice drawn up in accordance with regulation 36(1) and the other provisions of this Part.
- (3) Where a veterinary inspector has designated a provisional infected zone under paragraph (1) he shall immediately notify the Chief Veterinary Officer of that designation.

- (4) Where the Chief Veterinary Officer has reasonable grounds to believe that there has been an outbreak of a disease listed in Schedule 4 or other notifiable disease, he shall make a recommendation to the Minister that a disease emergency be declared under section 14(1) of the Act.

35 Provisional infected zone

- (1) Where a veterinary inspector has designated a provisional infected zone under section 12(1) of the Act, the Chief Veterinary Officer shall (without prejudice to other powers he may exercise under the Act or under these Regulations)—
- (a) take, or arrange to have taken, samples of or from any aquatic animal, premises, land or water in the provisional infected zone as may be necessary to establish whether the disease is present;
 - (b) examine, or arrange to have examined, the samples in an official laboratory;
 - (c) place any aquatic animal establishment or other area, as appropriate, in the provisional infected zone under surveillance; and
 - (d) where he suspects that the disease is present, initiate an epizootic investigation in order to determine—
 - (i) the possible origin and means of contamination;
 - (ii) whether aquatic animals have left the provisional infected zone during the period preceding its designation;
 - (iii) whether other aquatic animal establishments have been infected.

36 Content and service of provisional infected zone notices

- (1) A provisional infected zone notice shall—
- (a) state that the purpose of the notice is to declare a provisional infected zone, pursuant to section 12(1) of the Act;
 - (b) state the date on which it shall come into operation;
 - (c) specify the location and size of the zone being designated;
 - (d) specify the nature of the prohibitions, restrictions and requirements applicable within that area or any part of that area.
- (2) It is an offence for a person, except under, and in accordance with the requirements of, a provisional infected zone notice, to—
- (a) move any animal or animal product into, out of or within a provisional infected zone; or
 - (b) dispose of any animal (whether alive or dead) which comes from a provisional infected zone.
- (3) Without prejudice to anything which may be included in an emergency control notice under regulation 33, a provisional infected zone notice may—
- (a) prohibit or restrict the movement of any equipment, material or substances liable to transmit disease into, out of or within the provisional infected zone or any part of that zone;
 - (b) impose, in relation to the provisional infected zone or any part of that zone, such additional control measures as are considered necessary to prevent or limit the risk of the spread of disease to other animals.
- (4) A provisional infected zone notice shall be deemed to have been served on any person as follows—

- (a) resident or temporarily present in the designated zone;
 - (b) who owns, does business with or is otherwise engaged in any aquaculture establishment located within the designated zone;
 - (c) is involved in the movement of aquatic animals; and
 - (d) any other person or class of person specified in the notice.
- (5) A veterinary inspector shall serve a copy of the provisional infected zone notice on any person he considers likely to be affected by the making of the designation.
- (6) A provisional infected zone notice may be amended, suspended or withdrawn by a further general notice.

37 Powers of veterinary inspectors in a provisional infected zone

- (1) Without prejudice to (and subject to) the powers of veterinary inspectors under section 12 of the Act, a veterinary inspector may—
- (a) remove, slaughter or make arrangements to slaughter, destroy or dispose of any animal showing clinical signs of disease in the provisional infected zone;
 - (b) cleanse and disinfect any premises in the provisional infected zone or anything on those premises liable to transmit disease.
- (2) Without prejudice to anything which may be included in an emergency control notice under regulation 33, a veterinary inspector may, by emergency control notice served on the occupier of any premises in the provisional infected zone, require that person to—
- (a) take such measures as are specified in the notice to secure the slaughter, destruction, removal or disposal of any aquatic animal on the premises;
 - (b) provide and operate a disinfection facility at the entrances and exits of the premises in such manner as may be specified in the notice;
 - (c) cleanse and disinfect any premises or anything on those premises liable to transmit disease in such manner as may be specified in the notice;
 - (d) take such other measures as are specified in the provisional infected zone notice as the veterinary inspector considers necessary to eradicate the suspected disease or to prevent or limit the spread of the suspected disease to other aquatic animals.

38 Withdrawal of provisional infected zone notice

The Chief Veterinary Officer shall withdraw a provisional infected zone notice if—

- (a) he is satisfied that the suspected disease is not present, or is not likely to become present, in the provisional infected zone; or
- (b) an infected zone has been declared in an Order under section 12(3) of the Act.

39 Declaration of infected zone

(1) Where the Chief Veterinary Officer has confirmed that—

- (a) an animal establishment or any other area in the provisional infected zone is infected with a published notifiable disease or an emerging disease;
- (b) the disease poses a serious threat to animal or human health in [country name], or any area within [country name];

he shall make a recommendation to the Minister that an infected zone be declared under section 12(3) of the Act.

- (2) Where the Minister intends to declare an infected zone under section 12(3) of the Act, the Chief Veterinary Officer shall provide advice on the demarcation of the zone and of the controls to be provided in the zone taking into account—
- (a) the disease profile;
 - (b) the geographical situation of the restricted zone;
 - (c) the ecological and hydrological factors and meteorological conditions of the restricted zone;
 - (d) the presence, distribution and type of vectors in the restricted zone;
 - (e) the results of any epidemiological enquiries and other epidemiological data and studies;
 - (f) the results of laboratory tests;
 - (g) the disease control measures applied;
 - (h) other relevant epidemiological factors.

40 Actions relating to infected zones

- (1) Where the Minister has declared an infected zone under section 12(3) of the Act, the Chief Veterinary Officer shall—
- (a) take, or arrange to have taken, samples of or from any animal, premises, land or water in the declared infected zone as may be necessary to monitor the presence of the disease;
 - (b) examine, or arrange to have examined, the samples in an official laboratory;
 - (c) place any animal establishment or other area, as appropriate, in the declared infected zone under surveillance; and
 - (d) conduct further epizootic investigations as may be necessary in order to determine—
 - (i) the possible origin and means of contamination;
 - (ii) whether animals have left the declared infected zone during the period preceding its declaration;
 - (iii) whether other animal establishments have been infected.
 - (e) take all necessary measures to fully inform persons in the infected zone of the restrictions in force and the nature of the disease control measures;
 - (f) impose the necessary obligations on operators in order to prevent the further spread of disease.
- (2) Without prejudice to any powers that may be exercisable by any person under the Act, upon the declaration of an infected zone, the Chief Veterinary Officer shall take or shall cause to be taken any of the following actions, as may be required—
- (a) identify the establishments, food or feed businesses, animal by-products establishments or other locations where infected aquatic animals or aquatic animal products have been found;
 - (b) visit the establishments, food or feed businesses, animal by-products establishments or other locations where infected aquatic animals or aquatic animal products have been found, and, where necessary, examinations, sampling and laboratory examination of the samples taken;
 - (c) impose conditions for the movement of persons, aquatic animals, products, feed, vehicles and any other material or substance that may be contaminated or contribute to the spread of that listed disease within and from any restricted zone and transport through a restricted zone;
 - (d) biosecurity requirements for—
 - (i) the production, processing and distribution of products of aquatic animal origin;

- (ii) the collection and disposal of aquatic animal by-products;
 - (iii) cleaning, disinfection, control of insects and rodents;
 - (iv) other necessary biosecurity and risk-mitigating measures to minimise the risk of the spread of disease;
 - (v) the vaccination and treatment with other veterinary medicinal products of kept aquatic animals;
- (e) the designation or where relevant, approval of a food business establishment for the purposes of the slaughtering of aquatic animals or the treatment of products of aquatic animal origin originating from the infected zone.
- (3) When determining which of the disease control measures provided for in paragraph (2) are to be taken, the Chief Veterinary Officer shall take the following into account—
- (a) the disease profile;
 - (b) the types of production;
 - (c) the feasibility, availability and effectiveness of those disease control measures.
- (4) It is an offence for a person, except in accordance with any requirement or condition in the infected zone Order to—
- (a) sell, buy or otherwise trade any aquatic animal, aquatic animal product or aquatic animal related item from an infected zone;
 - (b) move any aquatic animal, aquatic animal product or aquatic animal related item into, out of or within an infected zone; or
 - (c) dispose of any aquatic animal (whether alive or dead) which comes from an infected zone.

41 Publicity of infected zone Order

- (1) In addition to the requirements in section 12(3) of the Act, an infected zone Order shall be published and disseminated in such manner and to such extent as the Chief Veterinary Officer considers necessary.
- (2) A veterinary inspector shall serve a copy of the infected zone Order on any person he considers likely to be affected by the making of the Order.

42 Powers of veterinary inspectors in an infected zone

- (1) A veterinary inspector may—
- (a) remove, slaughter, destroy or dispose of any aquatic animal suspected of being infected in the confirmed designation area;
 - (b) cleanse and disinfect any premises in the confirmed designation area or any thing on those premises liable to transmit disease.
- (2) A veterinary inspector may, by notice served on the occupier of any premises in the confirmed designation area, require that person to—
- (a) take such measures as are specified in the notice to secure the slaughter, destruction, removal or disposal of any aquatic animal on the premises;
 - (b) provide and operate a disinfection facility at the entrances and exits of the premises in such manner as may be specified in the notice;
 - (c) cleanse and disinfect any premises or anything on those premises liable to transmit disease in such manner as may be specified in the notice;
 - (d) empty, cleanse and disinfect any vehicle, item of equipment or machinery or other thing on the premises in such manner as may be specified in the notice;

- (e) take such other measures as are specified in the notice as the veterinary inspector considers necessary to eradicate the disease or to prevent or limit the spread of the disease to other animals.
- (3) A veterinary inspector may, by notice, prohibit any person from entering any farm or farming area in the infected zone.
- (4) It is an offence for a person to fail to comply with any requirement or prohibition imposed under this regulation.

43 Creation of barriers to movement of aquatic animals

- (1) Where—
 - (a) a veterinary inspector has designated a provisional infected zone under section 12(1) of the Act; or
 - (b) the Minister has declared a disease emergency under section 14(1) of the Act;
 - (c) the Minister that has declared an infected zone under section 12(3) of the Act,the Chief Veterinary Officer may exercise the powers in paragraph (2).
- (2) The Chief Veterinary Officer may, where it considers it appropriate to do so, arrange for—
 - (a) the creation and maintenance of barriers to the movement of any aquatic animal in any inland waters—
 - (i) to prevent the spread of the disease; and
 - (ii) to facilitate treatment with chemical agents with a view to eradicating the disease from the waters concerned;
 - (b) the treatment with chemical agents of any waters in the initial designation area or, as the case may be, the confirmed designation area with a view to eradicating the disease from the waters concerned;
 - (c) the removal of dead aquatic animals; and
 - (d) the dismantling and removal of barriers created under sub-paragraph (a).
- (3) In paragraph (2)(a) “inland waters” means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows.

Part 5 Compliance

44 Surveillance and inspections

- (1) Without prejudice to the powers of a veterinary inspector under section 38 of the Act, a veterinary inspector may enter any premises at all reasonable times for the purpose of—
 - (a) carrying out any actions in connection with an animal disease surveillance system; or
 - (b) carrying out an examination of an aquaculture establishment (including documents or records on the premises) in connection with an authorisation, an application for authorisation or an application to modify an authorisation.
- (2) A veterinary inspector acting under paragraph (1) must, if requested to do so, show evidence of his authority to act.
- (3) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours’ notice has been given to the occupier.

- (4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.
- (5) A veterinary inspector who enters premises for a purpose specified in paragraph (1) or under a warrant issued by a justice of the peace may—
 - (a) examine, photograph or mark any part of the premises or any object on the premises;
 - (b) inspect or search such premises, and examine any aquatic animal, or open and examine any aquatic animal product, aquatic animal-related item, object or substance;
 - (c) inspect any operation, process or system used or carried out on the premises;
 - (d) in relation to any aquatic animal or aquatic animal product, make examinations, apply tests, take samples and apply marks;
 - (e) inspect or make copies of any documents or records (in whatever form they may be held).
- (6) A veterinary inspector may prohibit the movement, treatment or destruction of any aquatic animal, container or package or any material which may have been contact with an infected aquatic animal, where this is necessary to enable the veterinary inspector to exercise the powers conferred by paragraph (5).
- (7) Where any document or record referred to in paragraph (5)(e) is kept by means of a computer, a veterinary inspector may—
 - (a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the record or document;
 - (b) require any person who is in charge of or is otherwise concerned with the operation of the computer, apparatus or material to give the veterinary inspector any assistance which the veterinary inspector reasonably requires.
- (8) A veterinary inspector may destroy or otherwise dispose of any sample taken under paragraph (5) where the sample is no longer required by the veterinary inspector.
- (9) A veterinary inspector may be accompanied by such other persons, and may bring onto the premises such equipment and vehicles, as the veterinary inspector considers necessary.
- (10) A person accompanying a veterinary inspector under paragraph (9)—
 - (a) may remain on the premises and from time to time re-enter the premises without the veterinary inspector;
 - (b) bring onto the premises any equipment or vehicle that the person considers necessary;
 - (c) carry out work on the premises in the manner directed by a veterinary inspector.
- (11) A person accompanying a veterinary inspector under paragraph (9) must, if so requested, show evidence of their authority given in that behalf by the competent authority.

45 Improvement notices

- (1) If a veterinary inspector has reasonable grounds for believing that an aquaculture establishment is not being operated in accordance with—
 - (a) the authorisation applicable to it;
 - (b) any condition of that authorisation; or
 - (c) any requirement in these Regulations,the veterinary inspector may serve an improvement notice on the operator of that aquaculture establishment.
- (2) An improvement notice served under paragraph (1) shall—

- (a) state the veterinary inspector's grounds for believing that the aquaculture establishment is not being operated in accordance with the requirements referred to in paragraph (1), as may be applicable;
 - (b) specify the matters which constitute the failure to comply;
 - (c) specify the measures which must be taken in order to comply;
 - (d) require the operator of the aquaculture establishment to take those measures, or measures which are at least equivalent to them, within such period as may be specified in the notice; and
 - (e) inform the business operator of the right to appeal against the notice under regulation 55.
- (3) Without limiting the generality of paragraph (2) an improvement notice may direct a person to—
- (a) clean and disinfect premises or equipment;
 - (b) enhance operational and sanitary measures;
 - (c) modify or replace equipment;
 - (d) alter animal health, safety or welfare practices at any stage of the business process.
- (4) The period of time specified in paragraph (2)(d) shall take into account—
- (a) the seriousness of the act of non-compliance and the level of animal health risk that presents;
 - (b) the extent and complexity of the modifications required in the aquaculture establishment's practices, procedures or facilities and the capacity of the operator to implement those modifications
- but in any case shall not be less than 14 days and shall be no longer than one year.
- (5) Any person who fails to comply with an improvement notice commits an offence.

46 Enforcement notices

- (1) If a veterinary inspector considers that, in respect of an aquaculture establishment, there is a contravention of, or failure to comply with—
- (a) the authorisation applicable to it;
 - (b) any condition of that authorisation; or
 - (c) any requirement in these Regulations,
- and reasonably suspects that as a result of such contravention or failure, there is a risk to human or animal health, the veterinary inspector may serve an improvement notice on the operator of that aquaculture establishment.
- (2) An enforcement notice served under paragraph (1) shall—
- (a) state the veterinary inspector's grounds for believing that—
 - (i) the operator is contravening or failing to comply with any requirements under the Act or Regulations under it; and
 - (ii) there is a risk to human or animal health;
 - (b) specify the matters which constitute the failure to comply;
 - (c) specify the measures which must be taken in order to comply;
 - (d) specify the date by which the steps must be taken; and
 - (e) inform the business operator of the right to appeal against the notice under regulation 55.
- (3) Without limiting the generality of paragraph (2) an enforcement notice may direct a person to—
- (a) clean and disinfect premises or equipment;

- (b) enhance operational and sanitary measures;
- (c) modify or replace equipment;
- (d) alter animal health or animal welfare practices at any stage of the business process;
- (e) modify or stop operations until the person has taken the remedial actions specified in the notice.

47 Emergency control notices

- (1) Where a veterinary inspector reasonably suspects—
 - (a) on the basis of any information or knowledge that he acquires in the course of his duties; or
 - (b) on the basis of any formal notification made to him, another veterinary inspector or the Chief Veterinary Officer pursuant to the Act or any Regulations made under it,
 that an aquaculture establishment or any other area is infected or a disease poses a serious and imminent threat to animal or human health, the veterinary inspector may serve an emergency control notice on that business operator.
- (2) An emergency control notice may be served—
 - (a) on any person in charge of or in occupation of an animal establishment or other premises;
 - (b) any employee of an animal establishment present on the premises of that animal establishment; or
 - (c) if no person can reasonably be located or identified, by affixing it in a conspicuous place in the animal establishment or other premises.
- (3) Following service of a notice under paragraph (1), a veterinary inspector may enter the premises and on the premises or elsewhere require any person or take steps to—
 - (a) prevent, control or reduce the risk of the spread of disease;
 - (b) destroy or treat any infected animals or infected material;
 - (c) modify or stop operations until remedial actions have been completed.
- (4) A veterinary inspector acting under paragraph (1) or (3) must, if requested to do so, show evidence of their authority to act.
- (5) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours' notice has been given to the occupier.
- (6) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.
- (7) A veterinary inspector may be accompanied by such other persons and may bring onto the premises such equipment and vehicles, as the veterinary inspector considers necessary.
- (8) A person accompanying a veterinary inspector under paragraph (7)—
 - (a) may remain on the premises and from time to time re-enter the premises without the veterinary inspector;
 - (b) bring onto the premises any equipment or vehicle which the person considers necessary;
 - (c) carry out work on the premises in the manner directed by a veterinary inspector.
- (9) A person accompanying a veterinary inspector under paragraph (7) must, if so requested, show evidence of their authority given in that behalf by these Regulations.

Part 6

General Provisions as to Notices

48 Service of notices

- (1) This regulation does not apply to emergency control notices or provisional infected zone notices.
- (2) A notice under these Regulations may be served on any person—
 - (a) by delivering it to him personally;
 - (b) by leaving it for him at his usual or last known place of abode or business;
 - (c) by sending it in a prepaid registered letter addressed to him at his usual or last known place of abode or, where an address for service has been given by that person, at that address; or
 - (d) in the case of a body corporate, or other body, by delivering it to the director, manager, secretary or other similar officer of that body at its registered or principal office in [country], or by sending it in a prepaid registered letter addressed to the secretary or other officer of that body at that office.
- (3) Where a notice under paragraph (1) is to be served on the occupier or other person in charge of premises, and the last known place of abode or business of that person cannot be ascertained after reasonable inquiry, the notice shall be taken to be served seven days after it has been addressed to “the occupier” and affixed conspicuously to an object on the premises to which the notice relates.
- (4) Where a notice is served under these Regulations, a veterinary inspector may, either in that notice or in a separate notice served on the owner or on such other person as appears to him to be in charge of the premises to which the notice relates, require the person on whom the notice is served to inform—
 - (a) the Chief Veterinary Officer of any change in the occupation of the premises to which the notice relates together with the date of such change and the name of the new occupier; and
 - (b) the new occupier of the premises of the contents of the notice.

49 Service of notices by electronic means

Any notice to which regulation 0 applies and to be served by the Chief Veterinary Officer or a veterinary inspector on any person may be served on that person by means of an electronic communication if—

- (a) the person has consented to the use of that form of communication and has provided an electronic address for that purpose;
- (b) the consent has not been withdrawn; and
- (c) the notice is sent to the address provided,

and where an electronic communication is used for the purpose of serving a notice, then, unless the contrary is proved, the notice shall be deemed to have been served on the day and at the time recorded by the transmitting apparatus as being the day and time of satisfactory completion of the transmission.

50 Coming into effect of notices

- (1) Unless a notice specifies a later date—
 - (a) an emergency control notice shall come into effect at the time it is served; and
 - (b) any other notice shall come into effect 24 hours after it has been served.

51 Information as to compliance with notices

A person on whom a notice has been served, or is deemed to have been served, under these Regulations shall, if so required by a veterinary inspector, inform the veterinary inspector whether the requirements of the notice have been complied with and, if they have been complied with, of the details of the steps taken in order to comply with those requirements.

52 Failure to comply with a notice

If any person fails to comply with a notice served under regulation 46 or regulation 47, or with a general notice, a veterinary inspector may—

- (a) take such steps as he considers necessary to—
 - (i) ensure compliance with the notice; or
 - (ii) remedy the consequences of the failure to comply with the notice; and
- (b) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the notice.

53 Costs of compliance

Unless the Chief Veterinary Officer directs otherwise in writing, a notice served under these Regulations shall be complied with at the expense of the person on whom it is served.

54 Disapplication of control measures

Any provision in these Regulations which prohibits or restricts the movement of any person or any thing do not apply to a veterinary inspector acting in the execution of these Regulations.

Part 7 Offences and Penalties

55 False information

- (1) It is an offence for a person when providing any information referred to in paragraph (2)—
 - (a) to make a statement which that person knows or suspects is false or misleading in a material particular; or
 - (b) intentionally to fail to disclose any material particular.
- (2) The information to which paragraph (1) relates is information provided—
 - (a) for the purpose of procuring under Part 2—
 - (i) grant of a certificate;
 - (ii) the amendment of a certificate;
 - (iii) the surrender of a certificate;
 - (iv) the registration of a non-commercial installation;
 - (b) for the purpose of procuring a movement permit under regulation 31;
 - (c) as to compliance with a notice, under regulation 51.
- (3) It is an offence for a person intentionally to make a false entry in any document or record required to be kept under these Regulations or by virtue of a certificate issued under these Regulations.

56 Obstruction

- (1) It is an offence for a person—
 - (a) intentionally to obstruct any person acting in the execution of these Regulations;
 - (b) without reasonable cause, to fail to give any person acting in the execution of these Regulations any assistance or information or to provide any facilities which that person may reasonably require the person to give or provide for the performance of that person's functions under these Regulations;
 - (c) knowingly or recklessly to give false or misleading information to any person acting in the execution of these Regulations;
 - (d) without reasonable cause, to fail to produce any document or record when required to do so by any person acting in the execution of these Regulations.
- (2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question if to do so might incriminate that person.

57 Offences due to fault of another person

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.

58 Offences by bodies corporate

- (1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) any director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person who was purporting to act in any such capacity,he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In subsection (1) above “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

59 Penalties

A person who is guilty of an offence under these Regulations is liable—
[national penalty provisions].

60 Fixed penalty offences

A person who is guilty of an offence under these Regulations is liable—
[national penalty provisions].

61 Fixed penalty notices

- (1) Where on any occasion a veterinary inspector finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may give to that

person a fixed penalty notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

- (2) Where a person is given a fixed penalty notice in respect of a fixed penalty offence—
 - (a) no proceedings shall be instituted for that offence before the expiration of the period for paying the fixed penalty; and
 - (b) he shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (3) A fixed penalty notice shall—
 - (a) be in the form set out in the Schedule, or such other form as the Minister may prescribe;
 - (b) give such reasonable particulars of the circumstances alleged to constitute the offence to which the notice relates; and
 - (c) state—
 - (i) the amount of the fixed penalty;
 - (ii) the period for paying the fixed penalty;
 - (iii) the person to whom and the address at which—
 - (A) the fixed penalty may be paid, and
 - (B) any correspondence relating to the fixed penalty notice maybe sent;
 - (iv) the method or methods by which payment may be made;
 - (v) the consequences of not making a payment within the period for paying the fixed penalty.
- (4) The Minister may extend the period for paying the fixed penalty in any particular case if it considers it appropriate to do so by sending notice to the person to whom the fixed penalty notice was given.
- (5) If in any particular case the Attorney General considers that a fixed penalty notice which has been given ought not to have been given, he may give to the person to whom the fixed penalty notice was given a notice withdrawing the fixed penalty notice, and where notice under this subsection is given—
 - (a) any amount which has been paid by way of fixed penalty in pursuance of the fixed penalty notice shall be repaid; and
 - (b) no proceedings shall be instituted or continued against that person for the offence in question.
- (6) In any proceedings, a certificate signed by or on behalf of the Minister and stating either—
 - (a) that payment of a fixed penalty was, or (as the case may be) was not, received on or before a date specified in the certificate, or
 - (b) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,
 - (c) shall be received as evidence of the matters so stated and shall be treated, without further proof, as being so signed unless the contrary is shown.

62 Amount of and period for paying a fixed penalty

- (1) The amount of a fixed penalty shall be [specify amount of method – e.g. 20% of the fine] in respect of the offences to which the fixed penalty notice relates.
- (2) The period for payment of the amount of a fixed penalty shall be 21 days beginning with the day after the day on which the notice is deemed to be served.

Part 8

Miscellaneous

63 Appeals

- (1) A person who is aggrieved by a decision of the Chief Veterinary Officer or a veterinary inspector, as the case may be, to—
- (a) in relation to a certificate under Part 2—
 - (i) refuse to grant a certificate ;
 - (ii) grant a certificate subject to any condition, other than a condition imposed under regulation 7;
 - (iii) modify a certificate or to refuse to grant an application for a modification;
 - (iv) serve a suspension notice;
 - (v) serve a revocation notice;
 - (vi) refuse to accept the surrender of a certificate ;
 - (b) refuse to issue a movement permit under regulation 31;
 - (c) serve an improvement notice under regulation 0;
 - (d) serve an enforcement notice under regulation 46;
 - (e) serve an emergency control notice under regulation 47,
- may appeal against it within 14 days of the decision, in writing to the Minister.
- (2) The Minister shall, after considering any representations the appellant may wish to make in writing or in person, give the appellant notice of its final determination and the reasons for it.
- (3) Subject to paragraph (4), where an appeal is brought by virtue of this regulation against—
- (a) the modification, suspension or revocation of a certificate ;
 - (b) an improvement notice under regulation 0;
 - (c) an enforcement notice under regulation 46;
- the amendment or notice shall not have effect pending the final determination or the withdrawal of the appeal.
- (4) Paragraph (3) shall not apply where the relevant notice includes a statement that in the opinion of the Chief Veterinary Officer or, as the case may be, the veterinary inspector, it is necessary for the purpose of preventing or limiting the risk of the spread of disease that that paragraph should not apply.

64 Prohibition on vaccination against listed disease

It is an offence for a person to vaccinate an aquatic animal against a notifiable disease except under, and in accordance with the conditions of, a licence granted by the Chief Veterinary Officer.

65 Public register of disease-free zones and compartments

- (1) The Chief Veterinary Officer shall establish and maintain a register of zones and compartments in [country name] declared disease-free under these Regulations.

- (2) The Chief Veterinary Officer shall make the register available for inspection by the public free of charge at all reasonable times at such place as may be determined by the Chief Veterinary Officer.

66 Records

- (1) Any person who is required to keep a record under these Regulations shall retain it for at least three years from the date the record is made (unless otherwise required under these Regulations).
- (2) It is an offence for a person to fail to comply with paragraph (1).

**Schedule 1
Forms and Certificates**

Form 1 - Application to Register an Aquaculture Establishment

Animal Health Regulations [2017]

Application to Register an Aquaculture Establishment

Application No. _____
Date of Application _____
Name of owner/operator of establishment _____
Existing registration no. (if any) _____
Business address of owner/operator _____
Name of operator of establishment _____
Business address of operator if different from address of establishment _____
Particulars of export operations _____

Other operations at the processing establishment if any, likely to affect the export operations carried on at the establishment _____

MISCELLANEOUS

Your application shall be accompanied by the following:-

1. The documents required by the Guidelines to Veterinary Inspection and Monitoring of Fish Processing Establishment Operations set by the Veterinary Services Division of the Ministry responsible for agriculture.
2. The Public Health Certificate pursuant to regulation 13 (4) (a).
3. The prescribed application and inspection fees.

Signature of Applicant _____

FOR OFFICIAL USE

Date Inspected _____
Result of Inspection _____
Document Received _____ Application Granted/Refused
Fee Received _____ If Granted: Certificate No. _____

Operating Certificate No. _____

Dated Application Received _____

If refused reasons therefore _____

Certificate 1 - Aquaculture Establishment Certificate

Animal Health Regulations [2017]

Aquaculture Establishment Certificate

Identification No. _____

(Name of Operator)

of _____

(Business Address of Operator)

is hereby authorised to operate a processing establishment at _____

(Address of Registered Premises)

This certificate is valid for a period of 12 months, unless earlier suspended or revoked, and is not transferable.

The operations which may be carried out under the authority of this certificate are—

This certificate is granted under the following conditions—

Breach of the Act or Regulations may result in suspension or revocation of this authority.

Dated the day of , 20

(Affix Stamp of Competent Authority)

Signed: _____

Chief Veterinary Officer

Veterinary Services Division, Ministry of Agriculture

Schedule 2**Fees**

In respect of an application of a type described in column 1 of the Table, a person must pay to the Authority the fee specified in column 2 in relation to that type of application.

Table

Type of application	Fee (\$)
Application for a certificate	[100]
Application to modify a certificate	[20]

Schedule 3**Information Required in the Official Register of Aquaculture Establishments****Part I Authorised aquaculture production business**

The following minimum information on each aquaculture production business shall be kept in a register—

- a. the name and addresses of the aquaculture production business, and contact details (telephone, facsimile, e-mail);
- b. the registration number and particulars of the authorisation delivered, (i.e. dates for specific authorisations, identification codes or numbers, specified conditions for production, any other matter relevant to the authorisation(s));
- c. the geographical position of the farm defined by a suitable system of coordinates of all farm-sites (if possible, GIS coordinates);
- d. the purpose, type (i.e. type of culture system, or facilities such as land-based facilities, sea cages, earth ponds) and maximum volume of production where this is regulated;
- e. details on the farm's water supply and discharges;
- f. the species of aquaculture animals reared at the farm (for multi-species farms or ornamental farms, it shall as a minimum be registered whether any of the species are known to be susceptible to diseases listed in Schedule 4, or known vectors of such diseases);

Part II Authorised processing establishments

The following minimum information on each aquaculture production business shall be kept by the Authority in a register—

- a. the name and addresses of the aquaculture production business, and contact details (telephone, facsimile, e-mail);
- b. the registration number and particulars of the authorisation delivered (i.e. dates for specific authorisations, identification codes or numbers, specified conditions for production, any other matter relevant to the authorisation(s));
- c. the geographical position of the processing establishment defined by a suitable system of coordinates (if possible GIS coordinates);
- d. details on the authorised processing establishment's water effluent treatment systems;
- e. the species of aquaculture animals handled in the authorised processing establishment.

Schedule 4
Listed Diseases

1. Fish diseases

Disease	Susceptible species
<i>Epizootic haematopoietic necrosis disease</i>	<i>redfin perch (Perca fluviatilis)</i> <i>rainbow trout (Oncorhynchus mykiss)</i>
<i>Infection with Aphanomyces invadans (epizootic ulcerative syndrome)</i>	<i>Etc. [to be aligned with OIE Aquatic Code and/or national requirements]</i>
<i>Infection with Gyrodactylus salaris</i>	
<i>Infection with HPR-deleted or HPRO infectious salmon anaemia virus</i>	
<i>Infection with salmonid alphavirus</i>	
<i>Infectious haematopoietic necrosis</i>	
<i>Koi herpesvirus disease</i>	
<i>Red sea bream iridoviral disease</i>	
<i>Spring viraemia of carp</i>	
<i>Viral haemorrhagic septicaemia</i>	

2. Mollusc diseases

<i>Infection with abalone herpesvirus</i>	
<i>Infection with Bonamia exitiosa</i>	
<i>Infection with Bonamia ostreae</i>	
<i>Infection with Marteilia refringens</i>	
<i>Infection with Perkinsus marinus</i>	
<i>Infection with Perkinsus olseni</i>	
<i>Infection with Xenohalictis californiensis</i>	

3. Crustacean diseases

<i>Acute hepatopancreatic necrosis disease</i>	
<i>Crayfish plague (Aphanomyces astaci)</i>	
<i>Infection with Yellowhead virus</i>	

<i>Infectious hypodermal and haematopoietic necrosis</i>	
<i>Infectious myonecrosis</i>	
<i>Necrotising hepatopancreatitis</i>	
<i>Taura syndrome</i>	
<i>White spot disease</i>	
<i>White tail disease</i>	

4. Amphibian diseases

<i>Infection with <i>Batrachochytrium dendrobatidis</i></i>	
<i>Infection with ranavirus</i>	

**Schedule 5
Fixed Penalty Notice**

FIXED PENALTY NOTICE

Pursuant to regulation 45 of the Aquatic Animal Health Regulations [2017]

[insert principal Act, if necessary]

To: _____ of _____

Place of Offence:

Date of Offence:

Time of Offence:

FIXED PENALTY: \$ _____.

YOU ARE HEREBY CHARGED as follows:

Statement of Offence: _____

contrary to _____

Maximum penalty: _____.

Particulars of Offence: _____

TAKE NOTICE that if, not later than 21 days from the date hereof, payment of the fixed penalty specified above is received as specified below by the Chief Veterinary Officer, all liability in respect of the offence will be discharged and no further action will be taken.

HOWEVER, if the fixed penalty is not paid within the specified time you will be required to attend court to answer the charges set out above.

UNLESS-

- (c) You admit the offence and plead guilty in writing; OR
- (d) An appearance is made on your behalf by a barrister and solicitor, in which case your personal attendance will be excused and the case will be disposed off in your absence.*

NOTICE: In case of default in payment within the time specified in the notice, the court may, if the person is found guilty by the court, impose a penalty which is more than the fixed penalty for the offence.

Signed..... Designation:
Authorised officer Date: _____

**see back of form for affidavit of Service*

AFFIDAVIT OF SERVICE
(To be completed in all cases)

I, _____ as the authorised officer whose signature appears at the foot of the Fixed Penalty Notice above, make oath and say that, on the _____ day of _____ at _____ I did serve upon the accused person specified therein.

A true copy of that Fixed Penalty Notice.

Sworn by the above named Authorised Officer at this ___ day of _____

Before: _____
Justice of Peace or Commissioner of Oaths Authorised Officer

**ANNEX C (IV):
CARIBBEAN FISHERIES SPS
REGULATIONS ANNOTATED
EXPLANATORY NOTES**



WRITTEN PLEA OF GUILTY

I, Caribbean Fisheries being the person named above hereby

SPS Regulations

Signed _____

Date: _____

Annotated Explanatory Notes

Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States

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1 | CONTEXT

1. These Annotated Explanatory Notes should be read in conjunction with the draft Model legislation, namely:
 - Model Aquatic Animal and Aquatic Products Hygiene Bill
 - Model Fish Hygiene and Inspection Regulations
 - Model Aquatic Animal Health Regulations
2. The Notes explain the provisions contained in the draft Bill and Regulations and provide indications of relevant international requirements and standards to which particular provisions are aligned. They also describe their potential relationship to other CARICOM model legislation in this field: the Model Bills on Food Safety, Animal Health and Plant Health.
3. The model legislation is intended to address fisheries-specific aspects of food safety and agricultural health regulation, as part of an overall framework of legislation addressing sanitary and phytosanitary (SPS) measures covering food safety, animal health and plant health.
4. These Model Regulations fit into a developing legislative environment in the CARICOM region, which consists of Model Bills on Food Safety, Plant Health and Animal Health developed under the 10th EDF programme for CARICOM, and now being progressed by the CARICOM Secretariat; the launch of the Caribbean Agricultural Health and Food Safety Agency (CAHFSA); new primary and secondary legislation relating to agricultural health and food safety and in a number of Caribbean countries; and developing institutional arrangements at the national level.

Application of international standards

5. The model legislation is designed to implement the key international standards; this includes:
 - For food safety:
 - CODEX: CAC/RPC-1-1969: General Principles of Food Hygiene
 - CODEX: CAC/GL 82-2013: Principles and Guidelines for National Food Control Systems
 - CROSQ: CRCP 5:2010. Code of Practice for Food Hygiene – General Principles
 - CODEX Code of Practice for Fish and Fisheries Products (2nd edition, 2012)
 - For animal health:
 - OIE Aquatic Animal Health Code (19th edition, as updated at the 84th General Session in May 2016).
6. As regards plant health, the legislation addresses only governance, governmental cooperation, monitoring and enforcement and so does not materially address phytosanitary standards.
7. The regulations have also been developed taking into consideration the obligations included in the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). According to article 3 of the SPS Agreement, which espouses the principle of harmonization, food safety measures which conform to international standards, guidelines or recommendations are presumed to be consistent with the Agreement.

Relation to other CARICOM model instruments and other national legislation

8. Primarily, it is considered that the Model CARICOM Bills on Food Safety and Animal Health provide a complete code at the primary legislation level for SPS matters, including in fisheries. Both Bills make it clear that they apply in their entirety to fish and fish products. In the Food Safety Bill – although no food types are specifically mentioned – the definition of food (s. 2) clearly includes fisheries; but in any case, s. 3 on scope confirms that the Bill applies to “all food” notwithstanding other legislation that may exist on “fish and aquaculture products, meat or other specific food products”. As regards the Animal Health Bill, “fish” and all other “aquatic” animals are included in the definition of “animal” (s. 2).
9. Since both Bills are intended to (and do) provide a complete code for, respectively, food safety and animal health it follows that there should not in principle be need for separate primary legislation addressing the fisheries sector.² Nevertheless, there are some matters that the Bills do not provide for extensively as regards the fisheries sector, in particular—
 - licensing of and standards for fishing vessels (food safety)
 - management of marine and inland waters for food safety and animal health regulation (e.g. demarcation of waters for food safety purposes)
 - inspection and monitoring at sea and on board fishing vessels
 - certain jurisdictional and evidential issues that tend to arise in the enforcement of matters at sea.
10. In addition, legislation should reflect: (a) the governance need for other agricultural health and food safety authorities to coordinate and cooperate closely with the national fisheries authority; and (b) the practicalities of enforcement in the fisheries sector, much of which happens at sea or at landing sites, where fisheries officers have the primary presence and role. In this regard, the fisheries / aquatic elements also apply to aquatic plants.
11. The model legislation presented in these Explanatory Notes therefore addresses fisheries (or aquatic) specific elements within an overall agricultural health and food safety framework. Most elements of the general framework would apply also to fish and other aquatic animals, aquatic plants and fisheries and aquatic products.
12. As regards food safety, this focuses on inspection at sea and on board fishing vessels; licensing of fishing vessels; and standards for fishing vessels (including supplementary matters on enforcement, control, jurisdiction, evidence, etc.). Supplementary measures for other aspects (general food hygiene, imports exports, traceability, etc.) are included.
13. These elements could be established in primary or secondary legislation, although some matters (governance matters, some enforcement powers and jurisdictional matters) are more typically the preserve of primary legislation. As regards primary legislation, it would also be possible to include the model Bill as part of an extended Food Safety Bill.

² *This is consistent with typical practice elsewhere (from both policy and legislative perspectives). Thus, in food safety “fish is food” like any other, and – while there are specific technical and regulatory issues specific to fisheries and fish products – other countries typically do not have separate primary legislation (and limited secondary legislation specifically on fisheries or fish products).*

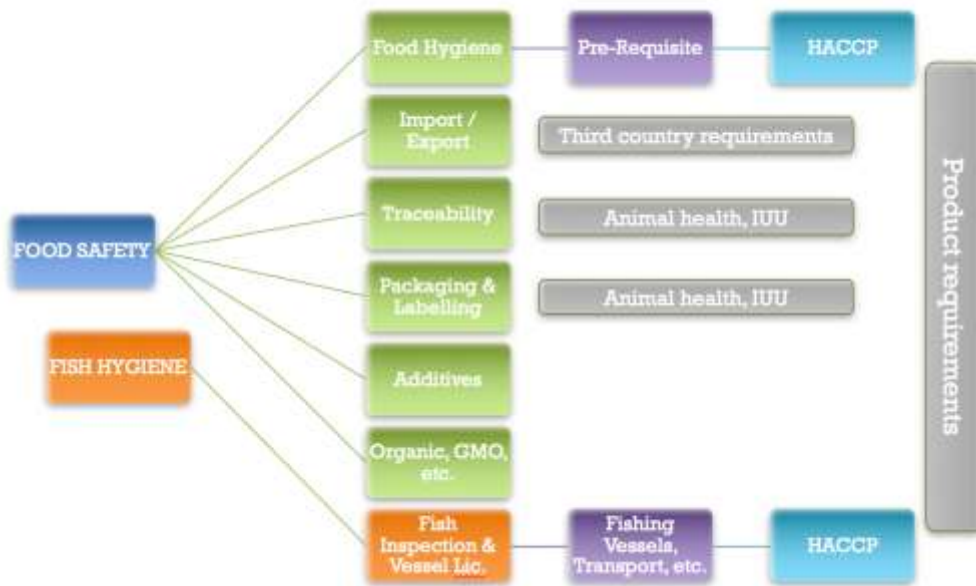


Figure 1: Food safety.

14. The situation in Animal Health is slightly different, since the OIE has developed two separate Codes for Terrestrial Animal Health and Aquatic Animal Health and there are substantial differences (although also many similarities) between the two, but again generally speaking primary legislation is focused on animal health holistically. No need for separate primary legislation (save for the governance, cooperation and enforcement matters with which the Fisheries Department is concerned) is foreseen, since the primary disease control powers and framework is already provided in the Model Animal Health Bill.

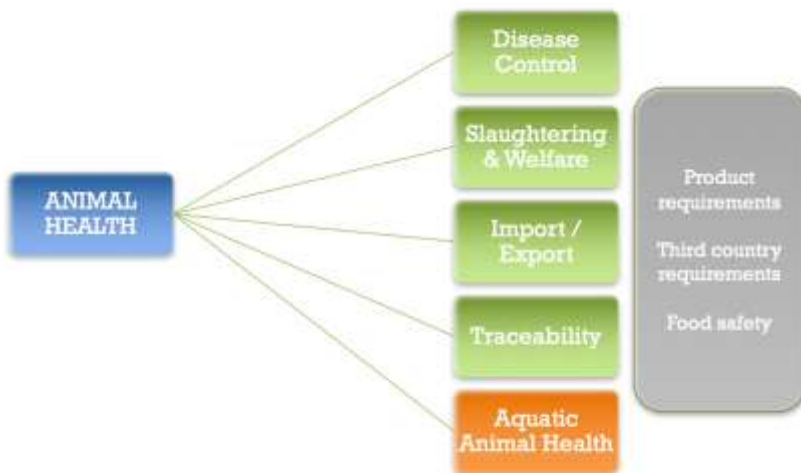


Figure 2: Animal health. Fisheries specific aspects deal with inspection at sea and on board

Finally, as regards **plant health**, general phytosanitary legislation would apply. The Aquatic Animals (etc.) Bill would apply to governance, cooperation and enforcement matters with which the Fisheries Department is concerned.

Adapting the regulations at the national level

15. The precise scope of the Act and Regulations, and the division and structure of primary and secondary legislation, would need to be adapted to national circumstances, taking account of national policy and the composition and structure of the fisheries sector. This should be a multi-disciplinary exercise, with the participation of a range of public and private stakeholders. A food safety law, including that concerning fisheries, should be based on a sound food policy. According to CAC/GL 82-2013, policy decisions guide legislation and require a careful assessment of stakeholder interests, how the food control system will relate to international and national standards, assessment of risks and/or benefits, effectiveness and efficiency of various controls and methods of oversight, existing and planned government structures, coordination among authorities along the food chain, technical and scientific information, the roles of government and food business operators, and best practices/models. Similar considerations would of course apply to animal and plant health.
16. Legislation must also consider any international, regional or bilateral obligations of the country. Stakeholders must understand the full extent, scope and implications of the legislation and its operation and implementation in practice. This is an important consideration, because a new, well-drafted law may not necessarily remove operational, implementation or compliance challenges in the existing framework.

2 | ANNOTATED EXPLANATORY NOTE: AAAPH ACT

Aquatic Animals and Aquatic Products Hygiene Bill

This note does not form part of the Bill but is intended to indicate the effect of the Bill.

The purposes of the Bill are to provide for certain regulatory and enforcement powers of the Fisheries Department and competent authorities dealing with food safety, animal health and plant health as regards aquatic animals and aquatic products (including aquatic plants aquatic food products) and to provide for aquatic animal health matters relating to production, exports and imports.

Part 1 deals with various preliminary matters.

Clause 1 provides a title and coming into force provision for the Regulations.

Clause 2 provides definitions of words and expressions used in the Bill.

Where applicable, definitions in this section are aligned with those included in the standards approved by the Codex Alimentarius Commission (Section 1: Basic texts and definitions, 24th Edition 2015) and in the OIE Aquatic Animal Health Code (2016 edition). Definitions aid the interpretation and enforcement of the Bill and can affect the scope of application of the Bill. Definitions should also consider the way the terms are defined in other national legislation.

Part 2 deals with the competent authorities and other questions of administration. The purpose is to clarify the responsibilities of each of the governmental authorities involved in agricultural health and food safety for aquatic animals and aquatic products.

Clause 3 confirms that the competent authorities with respect to food safety, animal health and plant health as defined in other Acts dealing with those matters are the competent authorities for those matters under this Bill. The regulation also requires each competent authority to enter into an MOU with the Fisheries Department, in order to enable the Fisheries Department to act on its behalf (under the competent authority's own Act), to provide inspectors and to provide technical assistance.

This section may need to be replaced by the alternative institutional arrangements established under national legislation.

The approach is consistent with **CAC/GL 82-2013**. Section 4.3 of CAC/GL 82-2013 permits delegations to be made to other public officials (in another Ministry, e.g. Fisheries).

It is to be noted that no equivalent MOU arrangements for competent authorities function under this Bill are provided since: (a) each competent authority has full competence under its own Act relating to aquatic animals, plants and products (as the case may be); and (b) officers under each of those Acts are automatically authorized officers under this Bill.

Clause 4 defines the role and functions of the Minister.

Clause 5 defines the role and functions of the Fisheries Department, which include: developing policies and programmes; providing appropriate training programmes; promoting public awareness and understanding; performing such functions pertaining to production, trade, marketing, transport, import and export of aquatic animals and aquatic products.

Clause 6 establishes an advisory committee to advise the Fisheries Department and each competent authority on general policy relating to the export of aquatic animals and aquatic products or any other matters in respect of which advice is sought by the Department or a competent authority; to initiate, carry out or support, research; to prepare and submit to each competent authority, annual reports regarding the export of aquatic animals and aquatic products; and to perform such other functions pertaining to the export of aquatic animals and aquatic products as may be assigned to it from time to time by the Minister. The constitutive Statutes of the committee are set out in the Schedule.

This structure would need to be adapted to the national institutional framework – e.g. as a sub-committee of a NAHFS, where established. The Statutes would also need to be adapted to the national institutional framework and specific national objectives. The committee would enhance coordination, particularly between the fisheries and agricultural health and food safety authorities.

Clause 7 provides a general obligation on public authorities to cooperate in the implementation of the Bill.

Principle 7 of CAC/GL 82-2013 stipulates that cooperation and coordination between multiple competent authorities is important for the most effective use of resources in order to minimize duplication or gaps and to facilitate information exchange, and section 4.1 encourages the establishment of cooperative arrangements. Agreements can be entered into at Ministry level or service-level, as appropriate in the country to provide a framework for cooperation and to set out specific roles. A legal foundation is important to underpin these types of agreements or memoranda of understanding.

Part 3 sets out a number of general requirements in relation to the application of agricultural health and food safety measures to aquatic animals and aquatic products.

The clauses in this Part are intended to define the relationship between the Bill and other agricultural health and food safety legislation. Clause 8 in particular confirms that the Bill is not a specific and exclusive code for aquatic animals and aquatic products, but in fact apply in addition to other requirements that may be applicable. Business operators are required to register and be licensed under the general food hygiene rules. Fishing vessels are licensed (for food safety purposes) under this Bill.

Clause 8 confirms that all other agricultural health and food safety legislation applies in addition to this Bill and confirms in particular that a person must hold the relevant licences under that legislation, in addition to a licence under this Bill if operating a fishing vessel.

Clause 9 enables the Fisheries Department, in consultation with the relevant competent authority, to develop or commission the development of codes of practice, standards or protocols or to adopt codes of practice, standards or protocols prepared by other organisations or persons (e.g. national standards bodies, CROSQ, CAHFSA, CRFM, etc.). These codes of practice may be voluntary, or may be “approved” by the Minister with a view to becoming obligatory (either generally or as a condition of particular or specific licences).

Clause 10 allows (appropriately qualified) aquatic animal health professionals to undertake activities assigned to veterinarians pursuant to the Bill or the Animal Health Act, in relation to aquatic animals.

Part 4 establishes the procedural requirements for the licensing of fishing vessels.

This Part focuses on the procedure for determining licence applications, so as to enable the competent authority to exercise official controls effectively. It ensures that the applicant provides the information and evidence and submits to an inspection, as required to make an informed decision.

Clause 11 empowers the Minister to prescribe certain types or classes of fishing vessel; particular fisheries or fishing areas; particular types or classes of licence; or fishing for particular purposes, including export, as requiring a licence under the Bill.

Clause 12 establishes a requirement for persons operating a “prescribed” fishing vessel to obtain a licence and operate the vessel in accordance with that licence.

The fishing vessels to be caught by this provision would need to be defined at the national level, and correspond to the composition of the national fleet and policy objectives.

Clause 13 requires any person who wishes to operate a prescribed fishing vessel to apply for a licence to operate the vessel, in such form and manner as may be prescribed in regulations, and to pay a prescribed fee.

The application procedures, forms and fees would need to be adapted to the national level. Different procedures, forms and fees can be created for different categories of licence.

Clause 14 sets out the criteria for the grant of a licence by the competent authority and the information that must be provided if the application is rejected.

Clause 15 sets out procedures and criteria according to which a licence may be suspended or revoked, and the information that must be supplied.

Clause 16 requires the Fisheries Department to establish and maintain a register of licensed fishing vessels and to assign to each fishing vessel operator a food business identification number as determined by the Food Safety Service.

A “food business identification number” is the identification number or other means of identifying and distinguishing food business operators determined by the Food Safety Service under s. 5(1)(k)(iv) of the CARICOM Model Food Safety Bill. This forms part of the overall food traceability system.

Clause 17 confirms the primary responsibility of fishing vessel operators for ensuring the safety of food operations conducted on the licensed fishing vessel and sets out the fundamental framework for food safety, including analysing and identifying food hazards, implementing effective control and monitoring procedures at critical points, maintaining proper records, etc.

Clause 17 sets the framework for HACCP use on board fishing vessels (consistent with CODEX: CAC/IPC-1-1969: General Principles of Food Hygiene; CROSQ: CRCP 5/2010: Code of Practice for Food Hygiene - General Principles; and section 3 of the Codex Code of Practice for Fish and Fisheries Products). Specific requirements (e.g. requirements concerning the design and construction of fishing vessels, the use and management of water, etc.) would need to be set in regulations.

Part 5 sets out requirements concerning import, export and transit.

This Part is intended to define the role of the Fisheries Department in import, export and transit procedures. These procedures are determined primarily under the other AHFS legislation, and in particular each of the competent authorities has the certification power in its field. Relevant provisions of the Bills include—

- sections 37, 38 and 41 of the Food Safety Bill deals (import requirements, import and export inspections and certification)
- sections 25 to 31 of the Animal Health Bill (designation of international border inspection points, import requirements and animal health certification, inspection of imports and transport of animals)
- sections 12 to 21 of the Plant Health Bill (restrictions on imports, phytosanitary certificates for import and export, inspection of imports).

Separate importing / exporting procedures for aquatic animals, etc. could in principle be specified in regulations, but the powers should not be duplicated in primary legislation. Moreover, the designated competent authority would need to be the certifying authority.

Clause 18 requires a customs officer to notify the Fisheries Department of the arrival of any aquatic animal or aquatic product and retain any item at the request of the Fisheries Department for inspection or in order to take a sample.

Clause 19 provides certain import and export inspection powers and duties (bases for inspections, retention of items for inspection, release or detention of inspected items), reflecting the powers for food inspectors under the Model Food Safety Bill.

Clause 20 provides authorised officers with the power to cancel export licences and export health certificates (granted by competent authorities) if prior to export there is non-compliance with any applicable agricultural health or food safety rules or the condition of the certified items subject to certification has deteriorated or materially changed, reflecting the powers for food inspectors under the Model Food Safety Bill.

Clause 21 provides authorised officers with the powers to suspend or withdraw an export licence or export health certificate and to take steps to recall exported products or to prevent the acceptance of the exported products by the importing country in certain circumstances where there is considered to be an exported aquatic animal or aquatic product which poses a danger to public, animal or plant health.

Clause 22 provides that the Fisheries Department may demarcate areas which may be approved as a production area from which aquatic animals may be harvested for export. The [Food Safety Service] is responsible for determining the testing procedures and criteria for approval.

Clause 23 empowers the Minister to designate a port, landing site or other place and to specify certain related requirements (e.g. that certain fish be landed at the designated landing site; that certain fish be landed at the designated landing site at specified times, with an appointed person present; that certain categories of fishing vessel, licence holder or fisher land fish, or certain fish, at the designated landing site; etc.

Note, no offence is specified here. However, if this requirement is not complied with harvested products would not be eligible for export.

Clause 24 provides an exception to the import requirements for small quantities of food used for personal consumption.

Part 7 sets out responsibilities in relation to inspection and monitoring duties, including the conduct of inspections at sea and in port.

Clause 25 requires a report to be made to the competent authority after any inspection.

Clause 26 sets out the basic requirements that an authorised officer must ensure when carrying out inspections, and various procedural rules concerning inspections.

Clause 27 confirms the power of the Fisheries Department and a competent authority to carry out inspections and audits of licensed vessels at sea.

Clause 28 confirms the power of the Fisheries Department and a competent authority to carry out inspections and audits of licensed vessels in port, and certain procedural requirements for such inspections or audits.

Clause 29 states that where an inspector has reasonable grounds to believe that fish has deteriorated after the date on which it was inspected or that it otherwise fails to meet the requirements of these Regulations, he may again inspect such fish.

Part 7 sets out the procedure for appointing authorised officers and sets out certain procedures for enforcement and ensuring compliance, including further specific powers of authorised officers.

Clause 30 defines “authorised officer” to include a food inspector, a veterinary inspector and phytosanitary inspector and any other person designated by the Minister.

This article provides for the appointment of appropriately qualified food inspectors, in accordance with Principle 5 of CAC/GL 82-2013, which stipulates that official persons should be impartial and free of improper or undue influence or conflict of interest. Particularly where food inspectors are sourced from different agencies in a multi-agency system, technical competency is a key criterion for selection of food inspectors.

Clause 31 sets out the functions of authorised officers, including powers to: inspect processing establishments, factory vessels, freezer vessels or carrier vessels; monitor the relay and production areas of aquatic animals and aquatic products; take samples, carry out inspections, etc.

Clause 32 aligns the powers of authorised officers under the Bill with the corresponding powers of authorised officers (equivalents) under the Food Safety, Animal Health and Plant Health Bills.

It would be incoherent if the powers of an officer or inspector under one Act were different under another for the same purpose. It is therefore suggested that the powers are directly aligned. Rather than cross-refer, the powers could be set out in the text of the Bill. However, this would be cumbersome.

Clause 33 sets out additional powers to stop, detain, board and search fishing vessels, and to order a vessel to port.

Clause 34 states that any person who is called upon to assist an authorised officer is authorised to render such assistance.

Clause 35 provides that no action may be brought against any authorised officer in respect of anything done or omitted to be done by him in good faith in the execution of his powers and duties under the Bill.

Part 10 contains general provisions on offences and penalties, including procedures in relation to offences and penalties. The offences described in this Part are general offences; specific offences for breaches of food safety requirements are contained in earlier Parts of the Act.

This Part should be revised according to the national legal system. However, certain issues should be noted. The framework should allow for different types of penalties, which are differentiated according to the serious nature of the offence or for repeated offences. One possibility might be a clustering of offences in terms of seriousness (for example, minor offences, serious offences and very serious offences, and having different penalties for each of the corresponding groups). This would further enhance transparency and clarity. The types of actions and omissions that would constitute a specific group can be decided at national level.

Other enforcement particulars and procedures have been included in the model legislation but again are very context/country specific. In many countries, once a violation has been committed, notice is served upon the offender to inform him or her of the facts, the date and nature of the offence and the assessed sanction. Notice is served prior to the imposition of a penalty so as to afford the accused a reasonable opportunity to object, either in writing or in person. In addition, an offender is granted the right to appeal a decision of the executive authority to a higher authority or to civil or administrative courts, within a specified period (see further below on appeals).

Fixed penalty offence procedures are also highly context-specific. This mechanism provides for the punishment of minor infractions through the issuance of fixed or ticketed penalties or “spot fines”, which can be imposed immediately by inspectors according to the established procedures. Upon receiving such ticket, the offender would then go to an administrative office to pay the corresponding fine.

As regards including specific figures in legislation, in many countries the financial penalties are stipulated in Acts and are low, in part because of the devaluation of the country's currency over time and because the listed penalties are in primary legislation and their revision would entail an amendment to the respective Acts which takes time. Alternative options are to include multipliers in implementing regulations, or also, to avoid listing specific penalties in the law but instead to list a range (firmly establishing a maximum), and to accord to the court the power to select the appropriate penalty within the listed range.

Clause 36 [A national penalty provision needs to be inserted. Penalties, which may include fines and/or imprisonment, should be consistent with the level of fines and sentencing policy at the national level].

Clause 37 provides for the imposition of administrative penalties.

Certain minor offences can attract administrative fines while more serious penalties and those involving actual damage may attract civil or criminal liability. Administrative penalties provide an enforcement mechanism, which can be more cost-effective, timely and practical than criminal penalties. Administrative penalties may take many forms which include fines, suspension or revocation of approvals, permits, licenses etc.; forfeiture of foods, etc.

Clause 38 provides for the imposition fixed penalty notices for prescribed offences.

Fixed penalty offence procedures are also highly context-specific. This mechanism provides for the punishment of minor infractions through the issuance of fixed or ticketed penalties or "spot fines", which can be imposed immediately by authorized officers according to the established procedures. Upon receiving such ticket, the offender would then go to an administrative office to pay the corresponding fine.

Clause 39 sets out the procedure for dealing with offences.

This section is also very context-specific and should be modified as necessary by national legal drafters.

Clause 40 states what happens to goods that are confiscated by authorised officers under the Bill.

Part 9 contains various procedural provisions relating to jurisdiction, evidence and liability.

This Part contains specific procedural rules which facilitate criminal procedure in cases involving fishing vessels, aquatic animals and aquatic products. This includes the use of certain presumptions in defined case (e.g. presumptions, which may be rebutted by the defendant, concerning entries in logbooks, analysis of food analysts, VMS readings, etc.). These are matters which might be preferred in primarily legislation in some countries.

Clause 41 enables national courts to have jurisdiction in relation to any potential contravention of the Regulations that occurs in marine space outside of the territory of [country].

Clause 42 reverses the normal burden of proof, by requiring a defendant charged with an offence involving an act for which a licence or other authorisation is required to prove that he held that licence or authorization at the material time.

Clause 43 creates a presumption (rebuttable by the defendant) that any food commonly used for human consumption is, if placed on the market, etc., intended to be for human consumption.

Clause 44 creates a number of general presumptions (rebuttable by the defendant) concerning fishing vessels, e.g. that the relevant entry in the logbook is prima facie evidence that the event took place where recorded.

Clause 45 creates a presumption (rebuttable by the defendant) that information on a package, etc. was produced, manufactured or packed, as the case may be, by the establishment or operator specified in that information.

Clause 46 allows certain evidence to be introduced by way of a certificate, subject to certain procedural steps.

Clause 47 sets out certain presumptions concerning the use of photographic evidence, and the procedural requirements to be followed when introducing such evidence.

Clause 48 sets out certain presumptions concerning the use of VMS evidence, and the procedural requirements to be followed when introducing such evidence.

Clause 49 makes it an offence to destroy or tamper with evidence.

Clause 50 provides that offences under the Regulations are strict liability offences (i.e. it is not necessary for the prosecution to prove that the defendant intended to commit an offence).

Part 10 contains various miscellaneous provisions..

Clause 51 provides a right of appeal against licensing decisions.

Clause 52 provides a right of appeal against decisions of authorised officers.

The appeal procedures should be tied into the procedures available in the other Bills. (In this respect, it is noted the Bills are not consistent).

Clause 53 places a duty on persons carrying out responsibilities under the Regulations to keep certain classes of information confidential.

This regulation replicates the requirement for confidentiality in s. 46 of the Model CARICOM Food Safety Bill (and equivalent provisions in the Model Animal and Plant Health Bills). It is consistent with Principle 3 of CAC/GL 82-2013 indicates that while all aspects of a national food control system should be transparent and open to scrutiny by all stakeholders, it is important nonetheless to respect and ensure the protection of confidential information as appropriate.

Clause 54 provides that the Minister is empowered to issue regulations that provide further elaboration of the provisions of the Bill.

The list of regulations may be extremely detailed or it may simply give broad outlines of the kinds of topics that may be addressed, and in either case would include a general clause such as to “make all regulations deemed necessary to achieve the purposes of the law”.

Clause 55 is a repeal and saving provision.

This is a standard feature of primary legislation. In some countries certain articles or whole parts of Acts may be repealed, and certain provisions that may be still needed may be saved. In some cases, certain forms or implementing regulations that are fairly recent and in line with international requirements may be saved. Any conflicting provision must be repealed.

The **Schedule** sets out the Statutes of the Advisory Committee.

3 | ANNOTATED EXPLANATORY NOTE: MODEL FISH INSPECTION REGULATIONS

Fish Inspection Regulations

This note does not form part of the Regulations but is intended to indicate the effect of the draft regulations. The Regulations are made under [insert national provision, equivalent to s. 54 of the Model Aquatic Animals Bill (or s. 62 Model Food Safety Bill, if made under that Act)].

The purposes of the Regulations are to provide for registration and licensing of production, food processing and other establishments dealing with aquatic animals, to provide for aquatic animal health matters relating to production, marketing and imports and to provide for disease management controls.

Part 1 deals with various preliminary matters.

Regulation 1 provides a title and coming into force provision for the Regulations.

Regulation 2 provides definitions of terms used in the Regulations. Terms and expressions used in the enabling Bill [the CARICOM Model Food Safety Bill] have the same meaning in the Regulations. Other terms and expressions are defined in the Regulations themselves.

Where applicable, definitions in this section are aligned with those included in the standards approved by the Codex Alimentarius Commission (Section 1: Basic texts and definitions. 24th Edition 2015). Definitions aid the interpretation and enforcement of the Bill and can affect the scope of application of the Bill. Definitions should also consider the way the terms are defined in other national legislation.

Regulation 3 defines the application / scope of the Regulations.

The precise scope of the Regulations would need to be adapted to national circumstances, taking account of national policy and the composition and structure of the fisheries sector. The intention of the Regulations is to align the food safety system with Principle 2 of CAC/GL 82-2013, which indicates that the national food control system should cover the entire food chain from primary production to consumption. Therefore, it is essential that fisheries production is adequately covered within the food safety system.

Regulation 4 requires any person who operates a registered establishment (i.e. an establishment registered as a food business under food safety regulations) to comply with these Regulations. Fishing vessels and fish transport vessels must also be licensed under these Regulations.

Part 2 establishes the procedural requirements for the licensing of fishing vessels, implementing Part 4 of the [CARICOM Model Aquatic Animal and Aquatic Product Hygiene Bill].

This Part focuses on the procedure for determining licence applications, so as to enable the competent authority to exercise official controls effectively. It ensures that the applicant provides the information and evidence and submits to an inspection, as required to make an informed decision.

Regulation 5 defines “prescribed fishing vessel” for the purposes of section 11 of the *[CARICOM Model Aquatic Animal and Aquatic Product Hygiene Bill]* and these Regulations. The specific vessels to be included are [to be] set out in Schedule 1.

Regulation 6 establishes a requirement for persons operating a “prescribed” fishing vessel to obtain a licence and operate the vessel in accordance with that licence and requires an application to be made in the form set out in Schedule 2, and to be accompanied by the fee specified in Schedule 3.

Both the application forms and the fees would need to be adapted to the national level. Different forms can be created for different types of fishing vessel.

Regulation 7 specifies the materials which must accompany an application, including HACCP plan and a plan of the layout of the vessel, the equipment used and the product flow.

Regulation 8 sets out the criteria for the grant of a licence by the competent authority, the form in which the licence must be issued (set out in Schedule 2) and the information that must be provided if the application is rejected.

Regulation 9 provides that a licence will be valid for 1 year, unless revoked earlier.

Regulation 10 sets out procedures and criteria according to which a licence may be suspended or revoked, and the information that must be supplied.

Regulation 11 enables the competent authority to modify a licence, or any condition, on its own initiative or on the application of the licence holder, and specifies the procedure, criteria in the event of an application and information that must be included. Minor modifications are exempt.

Regulation 12 requires the licensee to maintain and keep all reasonable records and information concerning the licensed vessel, including any records or information specified in the Regulations, or any code of practice, standard or protocol; production records; and all management procedures and policies.

Regulation 13 provides a general obligation that fishing vessels licensed under the Regulations must be of a design and construction so as to comply with the specifications in Schedule 4; and be operated in accordance with the specifications in Schedule 5.

Regulation 14 requires the competent authority to publish and disseminate an annual report on the quality of water intended for use in the processing of prescribed products in licensed vessels.

Regulation 15 requires an operator of a licensed vessel to notify the competent authority of the source of its water supply; ensure that the water used on his vessel is potable water or clean sea water; and maintain a distribution and recirculation plan identifying all pipes and outlets within the licensed vessel.

Regulation 16 requires the competent authority to establish appropriate programmes to monitor the quality of water intended for use in the processing of prescribed products to ensure that the water conforms to certain prescribed parameters and parametric values.

Regulation 17 sets out the steps to be taken where it is found, as a result of monitoring carried out that the water at source does not comply with the prescribed parameters and parametric values.

Regulation 18 requires operator to carry out routine examinations of the water supply under the supervision of the competent authority, and to submit samples for analysis. This must be done: once per year where the supply is from a public source and there is no intermediate storage system; once per week where the supply is from a private supply system or a public supply system with intermediate storage; and once per month in the case of a microbiological examination.

Part 3 sets out general provisions relating to the harvesting of aquatic animals and the production of aquatic animal food. These requirements apply in addition to general requirements for food safety, applicable under food safety regulations.

Regulation 19 provides that the competent authority may conduct inspection, sampling, testing and analysis of the waters of production areas to ensure that there are no noxious substances as would be harmful to human health, and to demarcate those areas which may be approved as a production area from which prescribed products may be harvested for export.

Regulation 20 describes certain conditions for unsuitable growing or harvesting areas, from which production is prohibited, including where there is a presence of pesticides, fungicides or heavy metals or areas where faecal material, etc. are present in concentrations that are harmful to human health.

Regulation 21 sets out a number of general requirements regarding fish and fishery products, including that: methods and procedures associated with harvesting and production of prescribed products shall be hygienic and aimed at preventing contamination; all prescribed products shall be harvested alive; and prescribed products which are unfit for human consumption are to be isolated and disposed of.

Regulation 22 sets out essential specifications for equipment and containers.

Regulation 23 requires that packaging, ingredients and raw materials relating to prescribed products must be protected from contamination during production, storage and transport.

Regulation 24 sets out certain requirements to take measures to prevent cross-contamination of prescribed products.

Regulation 25 sets out various requirements to ensure that chilling and freezing of prescribed products is carried out safely, and defining the actions that must be taken when the freezing temperature of prescribed products rises.

Regulation 26 requires licensed processing establishments that carry on thawing operations to comply with certain requirements to minimise delay and without causing undesirable physical, biochemical and microbiological changes.

Regulation 27 requires regular recording of the air temperature of refrigerators at licensed processing establishments.

Regulation 28 sets out various requirements for dried prescribed products, including ensuring a moisture content level low enough to prevent the growth of pathogenic micro-organisms.

Regulation 29 requires certain standards to be met in relation to the unloading, handling, etc. of prescribed products.

Regulation 30 requires all measuring instruments, gauges and devices used in connection with the preparation of prescribed products to be properly calibrated.

Part 4 sets out procedures for authorised officers to serve enforcement notices.

The general powers of authorised officers are specified in the various AHFS Bills (ss. 31-33 of the Aquatic Animals Bill; also in ss. 44 and 45 of the Food Safety Bill, s. 38 of the Animal Health Bill and s. 36 of the Plant Health Bill, since food inspectors, veterinary inspectors and phytosanitary inspectors are authorised officers under s. 30 of the Aquatic Animals Bill). The functions and powers of authorised officers in this Part relate to various types of enforcement notice, and supplementary powers related to service of these notices. These provisions are designed to permit a graduated approach to enforcement. This is consistent with section 4.1 of CAC/GL 82-2013 which encourages the enforcement of legislation and the taking of proportionate, dissuasive and effective action in case of non-compliance with requirements including, as appropriate, investigations and application of sanctions and penalties.

Regulation 31 empowers an authorised officer to serve an improvement notice on an operator or licensee if they are failing to comply with any condition or requirement applicable to them. The regulation defines the information that the improvement notice must contain. An improvement notice can specify that a person must take certain measures, within a certain time-period. This may include (among other things) requirements to: clean and disinfect premises or equipment; enhance operational and sanitary measures; modify or replace equipment; alter food safety practices at any stage of the business process.

Regulation 32 empowers an authorised officer to serve an enforcement notice on a person if he considers that there is a contravention of, or failure to comply with, an applicable requirement and that as a result there is a risk to human or animal health. The regulation defines the information that the enforcement notice must contain, and the steps that may be required. In addition to those available in an improvement notice, an enforcement notice may require a person to modify or stop operations until the person has taken the remedial actions specified in the notice.

Regulation 33 empowers an authorised officer to serve an emergency control notice on the owner, occupier or other person related to a fishing vessel or other premises if it appears any area is infected or a disease poses a serious and imminent threat to animal or human health. Following service of a notice, an authorised officer may board the fishing vessel or enter the premises and take or require any person or take steps to: prevent, control or reduce the risk of the spread of disease; destroy or treat any infected animals or infected material; or modify or stop operations until remedial actions have been completed.

Regulation 34 sets out the procedural requirements relating to the service of notices.

Regulation 35 provides that notices come into effect 24 hours after they have been served, except for emergency control notices which come into effect when served.

Regulation 36 requires a person on whom a notice has been served to inform an authorised officer, when requested, whether the requirements of the notice have been complied with and, if so, of the details of the steps taken.

Regulation 37 provides that where a person has failed to comply with a notice, an authorised officer may take such steps as are considered necessary to ensure compliance and remedy the consequences of non-compliance and may recover the expenses incurred in doing so.

Regulation 38 provides that unless the competent authority directs otherwise, a notice must be complied with at the expense of the person on whom it is served.

Part 5 contains general provisions on offences and penalties, including procedures in relation offences and penalties. The offences described in this Part are general offences; specific offences for breaches of food safety requirements are contained in earlier Parts of the Regulations.

This Part should be revised according to the national legal system. However, certain issues should be noted. The framework should allow for different types of penalties, which are differentiated according to the serious nature of the offence or for repeated offences. One possibility might be a clustering of offences in terms of seriousness (for example, minor offences, serious offences and very serious offences, and having different penalties for each of the corresponding groups). This would further enhance transparency and clarity. The types of actions and omissions that would constitute a specific group can be decided at national level.

Other enforcement particulars and procedures have been included in the model legislation but again are very context/country specific. In many countries, once a violation has been committed, notice is served upon the offender to inform him or her of the facts, the date and nature of the offence and the assessed sanction. Notice is served prior to the imposition of a penalty so as to afford the accused a reasonable opportunity to object, either in writing or in person. In addition, an offender is granted the right to appeal a decision of the executive authority to a higher authority or to civil or administrative courts, within a specified period (see further below on appeals).

Fixed penalty offence procedures are also highly context-specific. This mechanism provides for the punishment of minor infractions through the issuance of fixed or ticketed penalties or “spot fines”, which can be imposed immediately by inspectors according to the established procedures. Upon receiving such ticket, the offender would then go to an administrative office to pay the corresponding fine.

As regards including specific figures in legislation, in many countries the financial penalties are stipulated in Acts and are low, in part because of the devaluation of the country’s currency over time and because the listed penalties are in primary legislation and their revision would entail an amendment to the respective Acts which takes time. Alternative options are to include multipliers in implementing regulations, or also, to avoid listing specific penalties in the law but instead to list a range (firmly establishing a maximum), and to accord to the court the power to select the appropriate penalty within the listed range.

Regulation 39 [A national penalty provision needs to be inserted. Penalties, which may include fines and/or imprisonment, should be consistent with the level of fines and sentencing policy at the national level].

Regulation 40 [The offences which are to be fixed penalty offences, if any, need to be defined in accordance with s. 58 of Model Aquatic Animals Bill (also in s. 55 of the Model CARICOM Food Safety Bill)].

Regulation 41 makes it an offence to provide false or misleading information in relation to applications for licences, compliance with notices, etc.

Regulation 42 makes it an offence to obstruct any person in the execution of the Regulations.

Regulation 43 states that where an offence which has been committed by a body corporate is attributable to a company officer, he as well as the body corporate shall be deemed to be guilty of that offence.

Regulation 44 states that where the commission of an offence is due to the act or default of some other person, that other person shall be guilty of the offence.

Regulation 45 sets out the procedure for the issue of a fixed penalty notice. The Attorney-General has a power of review and can cancel a fixed penalty notice if he feels it ought not to have been given.

Regulation 46 [A national penalty provision needs to be inserted in relation to the fixed penalty amount, again consistent with the level of fines and sentencing policy at the national level].

Schedule 1 sets out the fishing vessels which are “prescribed fishing vessels” under the Regulations.

Schedule 2 contains the model forms, licences, certificates, etc. referred to in the Regulations.

Schedule 3 specifies the fees for licence applications.

Schedules 1 to 3 are highly country specific, and will need to be defined at the national level. The forms and fees in Schedules 2 and 3 should conform to the designations in Schedule 1.

Schedule 4 sets out the specifications for the design and construction of licensed vessels.

Schedule 5 sets out specifications and conditions for sanitary operations during fishing operations.

Schedules 4 and 5 are designed to identify aspects of HACCP prerequisites specific to fishing vessels (consistent with CODEX: CAC/RPC-1-1969: General Principles of Food Hygiene; CROSO: CRCP 5/2010: Code of Practice for Food Hygiene - General Principles; and section 3 of the Codex Code of Practice for Fish and Fisheries Products). In this case, certain requirements which apply to land-based food establishments would not be suitable. This includes specific requirements concerning the design and construction of fishing vessels, and the use and management of water. On the other hand, various other aspects of the ‘standard’ prerequisite requirements would continue to apply – for example, cleaning and sanitation protocols or personal hygiene protocols.

Schedule 6 sets out the form of a fixed penalty notice.

4 | MODEL AQUATIC ANIMAL HEALTH REGULATIONS

Aquatic Animal Health Regulations

This note does not form part of the Regulations but is intended to indicate the effect of the draft regulations. The Regulations are made under [insert national provision, equivalent to s. 54, CARICOM Model Animal Health Bill].

The purposes of the Regulations are to provide for registration and licensing of production, food processing and other establishments dealing with aquatic animals, to provide for aquatic animal health matters relating to production, marketing and imports and to provide for disease management controls.

Note, these Regulations should be made under the CARICOM Model Animal Health Bill.

Part 1 deals with various preliminary matters.

Regulation 1 provides a title and coming into force provision for the Regulations.

Regulation 2 provides definitions of terms used in the Regulations. Terms and expressions used in the enabling Bill [the CARICOM Model Animal Health Bill] have the same meaning in the Regulations. Other terms and expressions are defined in the Regulations themselves.

Regulation 3 defines the application / scope of the Regulations.

This is likely to be country specific, and would depend both on the status of the aquaculture sector and the uses (in and beyond aquaculture) of aquatic animals. Ornamental animals (including in closed or open facilities) could be included.

Part 2 deals with the registration of aquaculture facilities, including aquaculture production facilities, food establishments processing aquaculture products and non-commercial facilities dealing with aquatic animals.

The certification provisions should be reviewed and coordinated with general animal health regulations and food safety regulations. Multiple licensing requirements for business operators should be avoided, so that a business dealing with aquatic and non-aquatic products should be capable of being licensed once under the general regulations.

Regulation 4 requires anyone operating an aquaculture establishment (i.e. an aquaculture producer or a food business processing aquaculture products) to register and to operate their business in accordance with that registration.

Regulation 5 describes the procedure for making an application to register an establishment, and includes a requirement to pay a fee.

Regulation 6 provides the criteria the Chief Veterinary Officer must apply to the granting of registration, and the actions to be taken upon grant.

Regulation 7 sets out standard conditions of registrations, including requirements to keep certain records, implement good hygiene practice and comply with surveillance requirements. Slightly reduced conditions are specified for food processing establishments and non-commercial facilities.

Regulation 8 specifies that certificates and licences last for one year, unless terminated earlier.

Regulation 9 sets out the grounds on which the Chief Veterinary Officer may refuse to grant a certificate or licence and the information, in such case, that must be given to the applicant.

Regulation 10 sets out the grounds on which the Chief Veterinary Officer may suspend or revoke a certificate or licence and the information, in such case, that must be given to the applicant.

Regulation 11 provides that the Chief Veterinary Officer may modify a certificate or licence, or a certificate or licence holder may apply to modify a certificate or licence and states the information that must be given to the certificate or licence holder if a modification application is refused.

Regulation 12 states that a certificate or licence holder may surrender their certificate or licence, but only if this is accepted by the Chief Veterinary Officer. A certificate or licence holder must apply to surrender a certificate or licence.

Regulation 13 requires the Chief Veterinary Officer to establish and maintain a register of authorised aquaculture production businesses and processing establishments.

Part 3 deals with various matters relating to production, marketing, imports and exports. In general, these regulations are supplementary to general animal health rules dealing with the general measures and procedures relating to production, marketing and trade (imports and exports).

Regulation 14 sets out various general health requirements for aquaculture activities, including making it an offence for a person knowingly to place on the market any aquaculture animal or any aquaculture product that poses a risk of spreading disease to any aquatic animal.

Regulation 15 establishes a general identification requirement, requiring basic traceability requirements applicable to all consignments of aquaculture animals or aquaculture products.

Regulation 16 sets out some requirements [additional to those applicable to imports of animals generally under animal health regulations] when importing aquatic animals.

Regulation 17 sets out requirements for the transport of aquatic animals aimed at preventing disease.

Regulation 18 sets out requirements to record certain information when aquatic animals are transported, and to keep that information for four years.

Regulation 19 provides an exception to the rules on transport for aquatic animals transported in small containers (less than one cubic metre).

Regulation 20 sets the requirements to be applied to the import of aquatic animals, namely that no person can import an aquatic animal if it is of a species susceptible to a disease listed in the Regulations (Schedule 4) unless: (1) the aquatic animal comes from a country, zone or compartment which has disease-free health status or (2) has undergone inspection at the point of entry and has been confirmed to be disease free. In either case, is accompanied by and imported in accordance with an import permit (issued under the general animal health (import) regulations).

Regulation 21 sets out additional rules for the importation of carcasses and offal.

Regulation 22 provides an exception to the import requirements for animals imported for personal use (such animals do not require a permit).

Regulation 23 sets out certain information that needs to be provided (in place of an import permit) when importing aquatic animals which are not susceptible to the listed diseases (Schedule 4) in the Regulations.

Regulation 24 requires persons importing aquaculture animals that are intended for quarantine to take the animals directly to quarantine.

Regulation 25 sets out the general requirements for export, namely that no person can export any aquatic animal or aquatic product unless the animal or product: satisfies the animal health requirements of the State of destination; comes from a registered animal establishment; can be identified in accordance with the requirements of the [Identification Regulations]; and is registered in such a way that the original animal establishment can be traced.

Regulation 26 empowers the Chief Veterinary Officer to issue export certificates, carry out inspection services and to charge fees.

The export certification process should be established in a single set of regulations, aimed at all animal health exports certification by the competent authority.

Part 4 deals with the main controls on aquatic animals aimed at preventing the spread of disease, including the establishment of specific management zones in the event of a disease outbreak.

Regulation 27 places a requirement on “relevant” persons (as defined in the regulation) to monitor for disease presence and to make certain notifications if disease are suspected, or increase mortality is observed.

Regulation 28 enables the Authority to designate certain areas (including areas at sea) as eradication areas, in which certain disease management and eradication measures (including segregation and testing) can be taken.

Regulation 29 enables the Minister to declare any eradication zone (or part of one) to be either a free zone – if satisfied, based on certain criteria in the regulation, that the area is free of listed diseases – or alternatively a containment zone – if further steps are needed to contain the disease.

Regulation 30 contains restrictions on the movement of aquatic animals in eradication areas, including the requirement in certain cases for a movement permit.

Regulation 31 specifies the procedures for applying for and granting a movement permit, and grounds for the Chief Veterinary Officer to cancel or suspend a movement permit.

Regulation 32 places a requirement on a person moving any aquatic animal under a movement permit to produce the permit on request and to keep certain other documents.

Regulation 33 creates requirements in relation to the marking of aquatic animals.

Regulation 34 specifies certain criteria in the event of a suspected disease outbreak for the exercise, by a veterinary inspector, of the power to declare a provisional infected zone under [s. 12(1) of the CARICOM Model Animal Health Bill].

Regulation 35 specifies the powers of the Chief Veterinary Officer following the designation of a provisional infected zone.

Regulation 36 specifies the information that must be included in a provisional zone notice and certain controls that may be included in it (in addition to other controls under the Regulations and controls which derive from the Bill) and also sets out certain provisions in relation to how such notices may be served.

Regulation 37 specifies certain specific powers of veterinary inspectors in a provisional infected zone, including to remove, slaughter or dispose of any animal showing clinical signs of disease; and to cleanse and disinfect any premises in the provisional infected zone or anything on those premises liable to transmit disease.

Regulation 38 defines the procedure for withdrawal of a provisional infected zone notice.

Regulation 39 sets out a procedure for the Chief Veterinary Officer, in certain circumstances, to recommend to the Minister that an infected zone be declared under [section 12(3) of the CARICOM Model Animal Health Bill].

Regulation 40 specifies the actions that may be taken by the Chief Veterinary Officer in an infected zone, including taking samples, placing aquaculture establishments under surveillance, conducting epizootic investigations. It also makes it an offence for a person, except in accordance with any requirement or condition in the Order to, sell, buy or otherwise trade any animal, animal product or animal-related item from an infected zone; move any animal, animal product or animal-related item into, out of or within an infected zone; or dispose of any animal (whether alive or dead) which comes from an infected zone.

Regulation 41 requires the Chief Veterinary Officer to publish and disseminate an infected zone Order and to serve a copy of it on any person he considers likely to be affected by the making of the Order.

Regulation 42 sets out the powers of inspectors in an infected zone (in addition to those elsewhere in the Regulations and the Bill).

Regulation 43 allows the Chief Veterinary Officer arrange for the creation and maintenance of barriers to the movement of any aquatic animal in any inland waters to prevent the spread of the disease and for other defined purposes, following the designation of a provisional infected zone or infected zone or a disease emergency.

Part 5 deals with compliance, and describes veterinary inspectors surveillance and inspection powers and the steps that can be taken in the case of non-compliance or an animal health emergency.

Regulation 44 provides veterinary inspectors with a specific power to conduct actions in relation to any surveillance system and to carry out an examination of an aquaculture establishment.

Regulation 45 empowers a veterinary inspector to serve an improvement notice on an aquaculture establishment if it is not being operated in accordance with: the authorisation applicable to it; any condition of that authorisation; or any requirement in the Regulations. The regulation defines the information that the improvement notice must contain. An improvement notice can specify that a person must take certain measures, within a certain time-period. This may include (among other things) requirements to: clean and disinfect premises or equipment; enhance operational and sanitary measures; modify or replace equipment; alter animal health, safety or welfare practices at any stage of the business process.

Regulation 46 empowers a veterinary inspector to serve an enforcement notice on an aquaculture establishment if it is not being operated in accordance with: the authorisation applicable to it; any condition of that authorisation; or any requirement in the Regulations and there is a reasonable suspicion that as a result of such contravention or failure, there is a risk to human or animal health. The regulation defines the information that the improvement notice must contain, and the steps that may be required. In addition to those available in an improvement notice, an enforcement notice may require a person to modify or stop operations until the person has taken the remedial actions specified in the notice.

Regulation 47 empowers a veterinary inspector to serve an emergency control notice on an aquaculture establishment if an animal establishment or any other area is infected or a disease poses a serious and imminent threat to animal or human health. Following service of a notice, a veterinary inspector may enter the premises and on the premises or elsewhere require any person or take steps to: prevent, control or reduce the risk of the spread of disease; destroy or treat any infected animals or infected material; or modify or stop operations until remedial actions have been completed.

Part 6 contains general (procedural) provisions as to notices.

Regulation 48 provides rules for the methods of serving notices.

Regulation 49 permits notices to be served by electronic means, when a person has consented to the use of that form of communication and has provided an electronic address for that purpose.

Regulation 50 provides that notices come into effect 24 hours after they have been served, except for emergency control notices which come into effect when served.

Regulation 51 requires anyone on whom a notice is served to provide information, if so required, whether the requirements of the notice have been complied with and, if so, of the details of the steps taken.

Regulation 52 empowers a veterinary inspector, where a person fails to comply with a notice, to take such steps as he considers necessary to ensure compliance with the notice or to remedy the consequences of a failure to comply and to recover any expenses reasonably incurred.

Regulation 53 states that unless the Chief Veterinary Officer directs otherwise, a notice shall be complied with at the expense of the person on whom it is served.

Regulation 54 states that control measures in the Regulations do not apply to veterinary inspectors acting in the execution of the Regulations.

Part 7 contains general provisions on offences and penalties, including procedures in relation offences and penalties. The offences described in this Part are general offences; specific offences for breaches of animal health requirements are contained in earlier Parts of the Regulations.

Regulation 55 makes it an offence to provide false or misleading information in relation to applications for certificates or licences, compliance with notices, etc.

Regulation 56 makes it an offence to obstruct any person in the execution of the Regulations.

Regulation 57 states that where the commission of an offence is due to the act or default of some other person, that other person shall be guilty of the offence.

Regulation 58 states that where an offence which has been committed by a body corporate is attributable to a company officer, he as well as the body corporate shall be deemed to be guilty of that offence.

Regulation 59 [A national penalty provision needs to be inserted. Penalties, which may include fines and/or imprisonment, should be consistent with the level of fines and sentencing policy at the national level].

Regulation 60 [The offences which are to be fixed penalty offences, if any, need to be defined in accordance with s. 48 of the Model CARICOM Animal Health Bill].

Regulation 61 sets out the procedure for the issue of a fixed penalty notice. The Attorney-General has a power of review and can cancel a fixed penalty notice if he feels it ought not to have been given.

Regulation 62 [A national penalty provision needs to be inserted in relation to the fixed penalty amount, again consistent with the level of fines and sentencing policy at the national level].

Part 8 contains miscellaneous provisions.

Regulation 63 sets out a procedure for appeals against certain decisions of the Chief Veterinary Officer or a veterinary inspector. These procedures might be replaced by alternative procedures at the national level, for example where a Sanitary and Phytosanitary Appeals Tribunal has been established.

Regulation 64 makes it an offence for a person to vaccinate an aquatic animal against a notifiable disease except under a licence granted by the Chief Veterinary Officer.

Regulation 65 requires the Chief Veterinary Officer to establish and maintain a register of zones and compartments.

Regulation 66 requires records required under the Regulations to be kept for 3 years.

Schedule 1 contains model forms for aquaculture establishment.

Schedule 2 specifies the fees for certificate and licence applications, etc. [these will need to be determined at the national level].

Schedule 3 specifies the information required in the official register of aquaculture establishments.

Schedule 4 lists the diseases which are controlled under the Regulations. This list is based on the current list of aquatic animal diseases published by OIE but may need to be adapted to the national level.

Schedule 5 sets out the form of a fixed penalty notice.

The CRFM is an inter-governmental organization whose mission is to “Promote and facilitate the responsible utilization of the region’s fisheries and other aquatic resources for the economic and social benefits of the current and future population of the region”. The CRFM consists of three bodies – the Ministerial Council, the Caribbean Fisheries Forum and the CRFM Secretariat.

CRFM members are Anguilla, Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago and the Turks and Caicos Islands.

CRFM

Headquarters

secretariat@crfm.int

Tel: (501) 223-4443 - Fax: (501) 223-4446
Belize City - Belize

Eastern Caribbean Office

crfmsvg@crfm.int

Tel: (784) 457-3474 - Fax: (784) 457-3475
Kingstown - St. Vincent & the Grenadines

www.crfm.int

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