



Jersey

EU LEGISLATION (AQUATIC ANIMAL HEALTH) (JERSEY) REGULATIONS 2016

Arrangement

Regulation

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Made

12th April 2016

Coming into force

in accordance with Regulation 42

THE STATES, in pursuance of Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014¹, have made the following Regulations –

PART 1

GENERAL

1 Interpretation

(1) In these Regulations, unless the context otherwise requires –

“Commission Regulation 1251/2008” means Commission Regulation (EC) No 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species (OJ L 337, 16.12.2008, p. 1);

“confirmed designation” means a designation made by the Minister under Regulation 25;

“confirmed designation area” means the area in respect of which a confirmed designation has been made;

“Decision 2008/946/EC on quarantine” means Commission Decision 2008/946/EC of 12 December 2008 implementing Council Directive 2006/88/EC as regards requirements for quarantine of aquaculture animals (OJ L 337, 16.12.2008, p. 94);

“Directive 2006/88/EC” means Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (OJ L 328, 24.11.2006, p. 14);

“initial designation” means a designation made by the Minister under Regulation 21;

“initial designation area” means the area in respect of which an initial designation has been made;

“inspector” has the same meaning as in the Diseases of Animals (Jersey) Law 1956²;

“Jersey” includes the territorial sea adjacent to Jersey;

“Minister” means the Minister for the Environment;

“non-market installation” means an aquaculture production business in which aquatic animals are kept with no intention of placing them on the market;

“notifiable disease” has the meaning given by Regulation 19;

“operator” means any person who is responsible for the management of a business, establishment, installation, fishery or similar concern;

“processing establishment” means a food business that processes aquaculture animals for food purposes under an approval or registration under Article 4 of Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55);

“relevant EU instrument” means –

- (a) Commission Decision 2008/946/EC on quarantine;
 - (b) Commission Decision 2009/177/EC of 31 October 2008 implementing Council Directive 2006/88/EC as regards surveillance and eradication programmes and disease-free status of Member States, zones and compartments (OJ L 63, 7.3.2009, p. 15);
 - (c) Commission Decision 2010/221/EU of 15 April 2010 approving national measures for limiting the impact of certain diseases in aquaculture animals and wild aquatic animals in accordance with Article 43 of Council Directive 2006/88/EC (OJ L 98, 20.4.2010, p. 7);
 - (d) any other Decision or Regulation (other than Commission Regulation 1251/2008) –
 - (i) that is an implementing act or delegated act (within the meaning of Articles 290 and 291 of the Treaty on the Functioning of the European Union) in relation to Directive 2006/88/EC or Commission Regulation 1251/2008, or
 - (ii) for which the legal basis otherwise is or includes Directive 2006/88/EC, Commission Regulation 1251/2008 or a Directive repealed by Directive 2006/88/EC; and
 - (e) Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1), to the extent that that Regulation applies in relation to the health of aquaculture animals.
- (2) In these Regulations, a reference to an EU provision is to be read as a reference to that EU provision as it may be amended, substituted, extended or applied from time to time by any other EU provision, or as it

otherwise has effect in the EU from time to time by virtue of any judgment of the European Court.

- (3) Without prejudice to the generality of Article 5 of the European Union Legislation (Implementation) (Jersey) Law 2014³, unless the context otherwise requires –
- (a) the following expressions have the same meaning as in Directive 2006/88/EC –
- (i) aquaculture animal,
 - (ii) aquaculture production business,
 - (iii) aquatic animal,
 - (iv) disease,
 - (v) emerging disease,
 - (vi) epidemiological unit,
 - (vii) farm,
 - (viii) increased mortality,
 - (ix) mollusc farming area,
 - (x) ornamental aquatic animal,
 - (xi) placing on the market,
 - (xii) put and take fishery;
- (b) any other expression used but not defined in these Regulations, that is also used in Directive 2006/88/EC, has the same meaning as in Directive 2006/88/EC; and
- (c) any other expression used but not defined in these Regulations, that is not used in Directive 2006/88/EC, but is used in Commission Regulation 1251/2008, has the same meaning as in Commission Regulation 1251/2008.

2 Purpose and scope

- (1) The purpose of these Regulations is to implement Directive 2006/88/EC, and these Regulations are to be construed accordingly.
- (2) Commission Regulation 1251/2008 and the relevant EU instruments have effect in Jersey, to the extent, if any, that they do not have effect under Article 2 of the European Union (Jersey) Law 1973⁴.
- (3) The Minister is the competent authority in respect of Jersey for the purposes of Directive 2006/88/EC, Commission Regulation 1251/2008 and the relevant EU instruments.
- (4) These Regulations do not apply to –
- (a) an ornamental aquatic animal reared in a non-commercial aquarium;
 - (b) an aquatic animal caught for the purpose of production of fishmeal, fish feed, fish oil or any similar product.

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- (5) Nothing in these Regulations, other than Regulation 15 (as it applies for the purposes of Regulations 13 and 14), applies to an aquatic animal that –
 - (a) is not an aquaculture animal; and
 - (b) is harvested or caught for direct entry into the food chain.
 - (6) The obligations imposed by these Regulations are in addition to and not in derogation from the obligations imposed by and under –
 - (a) Article 15 of the Conservation of Wildlife (Jersey) Law 2000⁵; and
 - (b) the Sea Fisheries (Fisheries) (Jersey) Regulations 2010⁶.

PART 2

AUTHORIZATION REQUIREMENTS

3 Offence of unauthorized operation

- (1) A person is guilty of an offence and liable to a fine of level 4 on the standard scale if –
 - (a) the person operates an aquaculture production business or a processing establishment; and
 - (b) the business or establishment is not authorized by the Minister.
- (2) Paragraph (1) does not apply to a person to the extent that the person's operation consists of the keeping –
 - (a) of an ornamental aquatic animal;
 - (b) in a closed ornamental facility (within the meaning of Commission Regulation 1251/2008); and
 - (c) by a person who did not introduce the animal to Jersey.
- (3) Paragraph (1) does not apply to a person to the extent that the person operates a non-market installation or a put and take fishery, unless the Minister –
 - (a) considers that authorization of that non-market installation or put and take fishery is necessary to prevent or limit the spread of disease; and
 - (b) serves the operator with a written notice to that effect.
- (4) If the operator is served with a notice under paragraph (3)(b), the operator must, within 28 days of the service, apply under Regulation 4(1) for authorization.
- (5) If the operator complies with paragraph (4), the operator is to be treated as having an interim authorization, to carry on the activity to which the application relates, from the date of the application until the final determination date in relation to that application.
- (6) For the purposes of paragraphs (5), (7) and (8) –
 - (a) the “relevant commencement date” is the date on which paragraph (1) comes into force; and

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- (b) the “final determination date”, in relation to an application, is whichever is the earliest of the following dates –
 - (i) the date on which the application is withdrawn,
 - (ii) the date on which the Minister grants an authorization under Regulation 5,
 - (iii) if the Minister refuses to grant an authorization under Regulation 5 and the applicant does not apply for reconsideration under Regulation 37, the date on which the right to apply for reconsideration lapses under that Regulation,
 - (iv) if the Minister refuses to grant an authorization under Regulation 5 and the applicant does apply for reconsideration under Regulation 37, the date on which that application for reconsideration is withdrawn or the Minister serves notice under Regulation 37(6).
 - (7) Paragraph (8) applies to an operator who –
 - (a) operates an aquaculture production business or a processing establishment on the date on which these Regulations (other than paragraph (1) and Regulation 10(1)) come into force; and
 - (b) makes an application –
 - (i) that is an application for authorization and complies with Regulation 4(1),
 - (ii) that is made before the relevant commencement date, and
 - (iii) in relation to which the final determination date is not earlier than the relevant commencement date.
 - (8) The operator is to be treated as having an interim authorization, to carry on the activity to which the application relates, from the relevant commencement date until the final determination date in relation to the application.

4 Application for an authorization

- (1) An application for an authorization must be in such form and contain such information as the Minister may reasonably require.
- (2) A person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine if –
 - (a) the person provides any information in an application for an authorization;
 - (b) the information is false; and
 - (c) the person knows or suspects that the information is false.

5 Determination

- (1) The Minister must –

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- (a) determine an application for authorization within 90 days of receiving it; and
 - (b) serve the applicant with a written notice of the determination as soon as is practicable after making it.
 - (2) The Minister may grant an authorization to an aquaculture production business or processing establishment if the Minister is satisfied that the operation of the business or establishment will not lead to an unacceptable risk of spreading disease.
 - (3) The Minister may grant one authorization in relation to 2 or more aquaculture production businesses, to each of which an authorization may be granted under paragraph (2), if the businesses –
 - (a) are situated in one mollusc farming area;
 - (b) relate exclusively to molluscs; and
 - (c) do not include a dispatch centre, purification centre or similar business.
 - (4) If the Minister grants an authorization, the notice of the determination must –
 - (a) specify –
 - (i) the duration of the authorization, and
 - (ii) an authorization number; and
 - (b) contain information as to –
 - (i) the conditions to which the authorization is subject under Regulation 6(1) or (2), and
 - (ii) any condition attached to the authorization under Regulation 6(3), and the right to apply for reconsideration under Regulation 37 of the decision to impose that condition.
 - (5) If the Minister refuses to grant an authorization, the Minister must –
 - (a) give reasons for the refusal; and
 - (b) inform the applicant of the right to apply for reconsideration under Regulation 37.
 - (6) The Minister must establish and maintain –
 - (a) a record of every aquaculture production business authorized under this Regulation, containing the information set out in Part I of Annex II to Directive 2006/88/EC; and
 - (b) a record of every processing establishment authorized under this Regulation, containing the information set out in Part II of that Annex.
 - (7) The Minister must make arrangements –
 - (a) for publication of the record on the internet;
 - (b) for inspection of the record in paper form by the public –
 - (i) free of charge,
 - (ii) at all reasonable times, and
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- (iii) at such place as determined by the Minister; and
- (c) for the provision, on request by any person and subject to payment of any reasonable fee demanded by the Minister, of a paper copy of an entry in the record.

6 Authorization conditions

- (1) It is a condition of an authorization of an aquaculture production business that the operator must –
 - (a) follow good hygiene practice, as relevant for the activity concerned, to prevent the introduction and spreading of diseases;
 - (b) keep a record, in such form and manner as the Minister may specify, of –
 - (i) the movement of any aquaculture animal or any aquaculture animal product into or out of the premises of the business,
 - (ii) the number of any aquaculture animals that have died in each epidemiological unit within the premises,
 - (iii) the results of any surveillance carried out by the business, and
 - (iv) the results of any surveillance carried out by the Minister that have been notified to the business; and
 - (c) cooperate with any animal health surveillance scheme or inspection required or recommended by Article 10 of, or Part B of Annex III to, Directive 2006/88/EC, and comply with any other surveillance requirement imposed by the Minister.
- (2) It is a condition of an authorization of a processing establishment that the operator must –
 - (a) follow good hygiene practice, as relevant for the activity concerned, to prevent the introduction and spreading of diseases;
 - (b) keep a record, in such form and manner as the Minister may specify, of the movement of any aquaculture animal or any aquaculture animal product into or out of the premises of the establishment.
- (3) The Minister may, on granting an authorization, attach to the authorization any other condition that the Minister considers appropriate.

7 Amendment of an authorization

- (1) The Minister may amend an authorization.
- (2) The amendment may be by way of –
 - (a) varying the authorization itself;
 - (b) attaching to the authorization any condition that the Minister considers appropriate; or

- (c) varying or revoking a condition previously attached (whether on the grant of the authorization or subsequently) by the Minister to the authorization.
- (3) The amendment may be made –
 - (a) on the initiative of the Minister; or
 - (b) on application by the operator.
- (4) An application under paragraph (3)(b) must be in such form and contain such information as the Minister may reasonably require.
- (5) An application under paragraph (3)(b) does not prevent the Minister from making an amendment under paragraph (3)(a), whether instead of or as well as the amendment applied for under paragraph (3)(b).
- (6) The Minister must serve a written notice on the operator that –
 - (a) specifies the amendment or the decision not to make the amendment;
 - (b) gives the reason for the amendment or the decision not to make it; and
 - (c) informs the applicant of the right to apply for reconsideration under Regulation 37.
- (7) Paragraphs (6)(b) and (c) do not apply to an amendment made by way of granting an application under paragraph (3)(b).

8 Suspension of an authorization

- (1) The Minister may suspend an authorization, by serving the operator with a written notice, if the Minister considers that the authorized operation has not complied with, is not complying with, or is not likely to comply with –
 - (a) a condition of its authorization; or
 - (b) a requirement of these Regulations, of Commission Regulation 1251/2008 or of a relevant EU instrument.
- (2) In paragraph (1) “authorized operation” means the aquaculture production business, processing establishment, non-market installation or put and take fishery covered by the authorization.
- (3) The notice must –
 - (a) give the date on which the suspension is to take effect and its duration;
 - (b) give the reason for the suspension; and
 - (c) inform the operator of the right to apply for reconsideration under Regulation 37.

9 Revocation of an authorization

- (1) The Minister may revoke an authorization, by serving the operator with a written notice, if the Minister considers that the authorized operation has

not complied with, is not complying with, or is not likely to comply with –

- (a) a condition of its authorization; or
 - (b) a requirement of these Regulations, of Commission Regulation 1251/2008 or of a relevant EU instrument.
- (2) In paragraph (1) “authorized operation” means the aquaculture production business, processing establishment, non-market installation or put and take fishery covered by the authorization.
- (3) The notice must –
- (a) give the date on which the revocation is to take effect;
 - (b) give the reason for the revocation; and
 - (c) inform the operator of the right to apply for reconsideration under Regulation 37.

PART 3

REGISTRATION REQUIREMENTS

10 Registration

- (1) A person is guilty of an offence and liable to a fine of level 4 on the standard scale if –
- (a) the person operates –
 - (i) a non-market installation,
 - (ii) a put and take fishery, or
 - (iii) a specialist transport business, being a business or undertaking that wholly or mainly transports live aquaculture animals in a mode of transport specially designed or adapted for that purpose; and
 - (b) the non-market installation, put and take fishery or specialist transport business is not registered by the Minister.
- (2) Paragraph (1) does not apply –
- (a) to a non-market installation or put and take fishery that is required to be authorized by virtue of a notice under Regulation 3(3)(b); or
 - (b) to a non-market installation, put and take fishery or specialist transport business, in relation to an ornamental aquatic animal falling within Regulation 3(2).
- (3) An application for registration must be in such form and contain such information as the Minister may reasonably require for the purpose of the Minister’s functions as the competent authority under Directive 2006/88/EC and Commission Regulation 1251/2008.
- (4) If the Minister receives that form and information, and is satisfied that registration is required under paragraph (1) as read with paragraph (2), the Minister must –

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- (a) register the non-market installation, put and take fishery or specialist transport business; and
 - (b) serve the operator with a written notice of a registration number.
- (5) An operator is guilty of an offence and liable to a fine of level 4 on the standard scale if the operator fails to notify the Minister in writing of any material change in the information provided under paragraph (3) within 90 days of that change.
- (6) A person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine if –
- (a) the person provides information to the Minister under paragraph (3) or (5);
 - (b) the information is false; and
 - (c) the person knows or suspects that the information is false.

PART 4

PLACING ON THE MARKET

11 Application of Part 4

- (1) This Part does not apply to a person who –
 - (a) for scientific purposes places on the market an aquaculture animal or an aquaculture animal product; and
 - (b) has obtained the prior written consent of the Minister.
- (2) The Minister may grant consent for the purposes of paragraph (1)(b) subject to such conditions as the Minister considers appropriate, having regard to the risk of the spread of disease.

12 General health requirements

- (1) A person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if that person –
 - (a) introduces a live aquaculture animal into a farm or mollusc farming area after an inspection in contravention of Article 9 of Commission Regulation 1251/2008;
 - (b) handles an imported aquaculture animal, or an imported product of such an animal, in contravention of Article 15(1) of Commission Regulation 1251/2008;
 - (c) releases an aquaculture animal into the wild in contravention of Article 15(2) of Commission Regulation 1251/2008; or
 - (d) handles transport water in contravention of Article 15(3) of Commission Regulation 1251/2008.
- (2) A person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if, without the prior written consent of the Minister, the person releases an ornamental aquatic animal, kept in a

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- closed ornamental facility (within the meaning of Article 2(a) of Commission Regulation 1251/2008), into –
- (a) an open ornamental facility (within the meaning of Article 2(b) of Commission Regulation 1251/2008);
 - (b) a farm;
 - (c) a mollusc farming area;
 - (d) a relaying area;
 - (e) a put and take fishery; or
 - (f) the wild.
- (3) A person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if that person –
- (a) places a relevant aquaculture animal on the market for farming; or
 - (b) releases a relevant aquaculture animal –
 - (i) into the wild, or
 - (ii) into a put and take fishery.
- (4) A relevant aquaculture animal is any aquaculture animal other than one which –
- (a) is clinically healthy; and
 - (b) comes from a farm or mollusc farming area –
 - (i) where there is no increased mortality, or
 - (ii) where there is increased mortality, but paragraph (5) applies.
- (5) This paragraph applies if –
- (a) the aquaculture animal comes from a part of the farm or mollusc farming area that is independent of the epidemiological unit in which the increased mortality has occurred; and
 - (b) the Minister gives his or her prior written consent to the placing on the market or release.

13 Certification requirements

- (1) A person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if that person introduces into Jersey an aquaculture animal or aquaculture animal product that –
- (a) is required to be accompanied by an animal health certificate under Chapter III or IV of Commission Regulation 1251/2008; and
 - (b) is not accompanied by such a certificate completed in accordance with the relevant model specified in that Chapter.
- (2) A person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine if, for the purpose of procuring the issue of an animal health certificate under Chapter III of Commission Regulation 1251/2008, that person –
- (a) makes a statement that is false and is known or suspected by that person to be false; or

- (b) intentionally fails to disclose any material particular.

14 Additional certification for susceptible and vector animals: place of introduction

- (1) This Regulation applies to an aquaculture animal that –
 - (a) is of a species specified, in Part II of Annex IV to Directive 2006/88/EC, as susceptible to a disease specified in that Part; or
 - (b) is to be regarded, by virtue of Article 3 of (and Annex I to) Commission Regulation 1251/2008, as a vector of such a disease.
- (2) Paragraph (3) applies, for the purpose of Regulation 13(1), if the animal is in a consignment intended for a put and take fishery or for release into the wild.
- (3) The place, at which the person introduces the animal, is to be treated as though that place has disease-free health status (being category I status under Part A of Annex III to Directive 2006/88/EC) in relation to the disease by virtue of which this Regulation applies to the animal.

15 Additional certification for susceptible and vector animals: wild animals

- (1) This Regulation applies to an animal, that is not an aquaculture animal, if –
 - (a) it is a live aquatic animal that can survive in the natural aquatic environment in Jersey; and
 - (b) it is –
 - (i) of a species specified, in Part II of Annex IV to Directive 2006/88/EC, as susceptible to a disease specified in that Part,
 - (ii) to be regarded, by virtue of Article 3 of (and Annex I to) Commission Regulation 1251/2008, as a vector of such a disease, or
 - (iii) of a species specified, in Part C of Annex II to Commission Regulation 1251/2008, as susceptible to a disease specified in that Part.
- (2) The animal is to be treated as though it is an aquaculture animal –
 - (a) for the purposes of Regulations 13(1) and 14, if it is in a consignment intended for a put and take fishery or for release into the wild; or
 - (b) for the purpose of Regulation 13(1), if it is in a consignment intended for further processing.

16 Disease prevention requirements in respect of transport

- (1) A person is guilty of an offence and liable to a fine if that person transports an aquaculture animal in breach of any of the requirements in paragraph (2).

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- (2) The requirements are that –
 - (a) the duration of the transport must be as short as reasonably possible;
 - (b) the means of transport must be cleaned and disinfected before dispatch;
 - (c) if the animal is transported overland in water –
 - (i) it must be transported in such a way that the water cannot escape from the means of transport, and
 - (ii) any water exchange is carried out only at a water station that the Minister has approved; and
 - (d) the conditions of transport must minimize the risk of spreading disease to –
 - (i) the animal being transported,
 - (ii) any aquatic animal at any place of transit,
 - (iii) any aquatic animal at the place of destination.
 - (3) This Regulation does not apply to transport by means of a container that –
 - (a) is watertight and airtight;
 - (b) is no larger than one cubic metre; and
 - (c) is accompanied by a label or document that lists its contents, place of origin, any place of transit and its place of destination.
 - (4) The obligations imposed by this Regulation are in addition to and not in derogation from the obligations imposed by and under the Community Provisions (Welfare of Animals during Transport) (Jersey) Regulations 2013⁷ and the Animal Welfare (Jersey) Law 2004⁸.

17 Transporting imported animals directly to quarantine

- (1) A person is guilty of an offence and liable to a fine if –
 - (a) the person imports from a third country an aquaculture animal that is intended for quarantine; and
 - (b) the animal is not transported directly from the border inspection post to a quarantine facility.
- (2) In paragraph (1)(b) –
 - (a) “border inspection post” means, in relation to a species of animal, a place for the time being designated and approved in relation to that species under Article 6 of Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries (OJ L 268, 24.9.1991, p. 56);
 - (b) “quarantine facility” has the meaning given in Article 2(1) of Commission Decision 2008/946/EC on quarantine.

18 Recording of information in respect of transport

- (1) A person who transports an aquaculture animal is guilty of an offence and liable to a fine of level 4 on the standard scale if that person fails to keep a record –
 - (a) of the information referred to in paragraph (2);
 - (b) in the form and manner, if any, specified under paragraph (3);
 - (c) for a period of 2 years beginning with the date on which the aquaculture animal reaches its place of destination.
- (2) The information is –
 - (a) the number of any animals that die in the course of transport;
 - (b) all facilities operating under an authorization or registration granted under Part 2 or 3 that are visited in the course of the transport;
 - (c) any water exchange in the course of the transport;
 - (d) the source of any water introduced into the means of transport; and
 - (e) the location at which any water from the means of transport is discharged.
- (3) The Minister may specify the form and manner in which the information referred to in paragraph (2) must be recorded.
- (4) It is a defence for a person charged with an offence in relation to paragraph (2)(a) to show that it was not practicable to keep such a record.
- (5) This Regulation does not apply to transport by means of a container that –
 - (a) is watertight and airtight;
 - (b) is no larger than one cubic metre; and
 - (c) is accompanied by a label or document that lists its contents, place of origin, any place of transit and its place of destination.

PART 5**NOTIFICATION AND CONTROL OF DISEASE OUTBREAKS, AND
INTERIM MEASURES****19 Notifiable diseases**

- (1) For the purposes of this Part, a disease is a notifiable disease if it is –
 - (a) a disease listed in Part II of Annex IV to Directive 2006/88/EC;
 - (b) a disease specified in an Annex to Decision 2010/221/EU as a disease for which Jersey –
 - (i) is regarded as being free of the disease,
 - (ii) has an approved eradication programme for the disease, or
 - (iii) has an approved surveillance programme for the disease; or
 - (c) a supplementary disease, prescribed under paragraph (2).

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- (2) The Minister may by Order prescribe a disease as a supplementary disease if, notwithstanding that the disease does not fall within paragraph (1)(a) or (b), the Minister considers –
 - (a) that it is appropriate and necessary to control the disease in Jersey by rendering it a notifiable disease, on the ground that the disease constitutes a significant risk to the health of aquaculture animals or wild aquatic animals in Jersey; and
 - (b) that the disease may be controlled in Jersey, by the measure of rendering it a notifiable disease, without –
 - (i) contravening Article 43(1) of Directive 2006/88/EC, or
 - (ii) requiring approval under Article 43(2) of that Directive.
 - (3) The Minister must, in considering whether to exercise the power conferred by paragraph (2), have regard to whether the disease is specified in any of the Annexes to Decision 2010/221/EU in relation to a state or area other than Jersey.
 - (4) For the purpose of this Regulation, “Decision 2010/221/EU” means Commission Decision 2010/221/EU of 15 April 2010 (OJ L 98, 20.4.2010, p. 7) approving national measures for limiting the impact of certain diseases in aquaculture animals and wild aquatic animals in accordance with Article 43 of Council Directive 2006/88/EC.

20 Obligation to notify in case of suspicion of a notifiable disease or increased mortality

- (1) A relevant person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if that person –
 - (a) knows or suspects that a notifiable disease is present in aquatic animals; and
 - (b) fails immediately to notify the Minister of the information or other matter on which that knowledge or suspicion is based.
- (2) A relevant person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if that person –
 - (a) knows or suspects that increased mortality has occurred or is occurring in aquaculture animals; and
 - (b) fails immediately to notify the Minister or a veterinarian of the information or other matter on which that knowledge or suspicion is based.
- (3) In this Regulation “a relevant person” means –
 - (a) the owner of, or any person attending, aquatic animals;
 - (b) a person accompanying aquaculture animals during transport;
 - (c) a veterinarian, or other professional, involved in aquatic animal health services; or
 - (d) any other person with an occupational relationship to aquatic animals of susceptible species or to products of such animals.

21 Initial designation

- (1) If the Minister suspects that a notifiable disease or an emerging disease is present, or may become present, in aquatic animals in Jersey, the Minister must designate the area that he or she considers appropriate to prevent or limit the spread of that disease.
- (2) The Minister must, in relation to an initial designation –
 - (a) take samples of any water or aquatic animals that the Minister suspects are infected;
 - (b) examine the samples in a laboratory designated by the Minister under Article 57 of Directive 2006/88/EC; and
 - (c) undertake an epizootic investigation in accordance with Article 29 of Directive 2006/88/EC.
- (3) A person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if, without the prior consent of the Minister, that person –
 - (a) moves an aquatic animal into, out of or within an initial designation area; or
 - (b) disposes of a dead aquatic animal that comes from that area.
- (4) The Minister may give consent for the purpose of paragraph (3) –
 - (a) to a particular person, in writing; or
 - (b) generally, to all persons or to a description of persons, by notice published by the Minister in a manner appearing to the Minister likely to bring it to the attention of those persons.

22 Contents and publication of an initial designation

- (1) An initial designation must –
 - (a) be in the form of a written notice;
 - (b) describe the initial designation area; and
 - (c) describe the circumstances in which a person commits an offence under Regulation 21(3).
- (2) An initial designation may specify that –
 - (a) any equipment, material or substance liable to transmit disease must not be moved into, out of or within the initial designation area or any part of that area;
 - (b) any means of transport liable to transmit disease must not be moved into, out of or within that area or any part of that area.
- (3) The Minister –
 - (a) must serve a copy of an initial designation on any person the Minister considers likely to be materially affected by the making of the designation; and
 - (b) must also publish the initial designation in such manner as the Minister considers appropriate.

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- (4) A person who contravenes a restriction imposed under paragraph (2) is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.

23 Actions by an inspector in respect of an initial designation

- (1) This Regulation applies if the Minister has made an initial designation.
- (2) An inspector may –
- (a) take samples of any aquatic animal or water in the initial designation area;
 - (b) slaughter, destroy or dispose of any such animal.
- (3) An inspector may by written notice direct any person to –
- (a) take steps to secure the slaughter, destruction or disposal of any aquatic animal in the initial designation area;
 - (b) operate a disinfection facility at the entrance to, and exit from, any farm or mollusc farming area in that area;
 - (c) disinfect any means of transport in that area;
 - (d) take any other steps that the inspector considers necessary to eradicate the disease or to prevent or limit the spread of the disease to other aquatic animals.
- (4) An inspector may by written notice prohibit any person from entering any farm or mollusc farming area within the initial designation area.
- (5) Where an inspector considers that a requirement under paragraph (3) has not been complied with, the inspector may –
- (a) enter any place within the initial designation area;
 - (b) take or cause to be taken such steps as the inspector considers necessary to –
 - (i) ensure compliance with the requirement, or
 - (ii) remedy the consequences of the failure to carry it out;
 - (c) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the requirement.
- (6) A person who, without reasonable excuse, contravenes a requirement imposed under paragraph (3) or (4) is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.

24 Amendment, suspension and withdrawal of initial designation

- (1) The Minister may, by further written notice served in accordance with Regulation 22(3), amend, suspend or withdraw an initial designation.
- (2) The Minister must withdraw an initial designation when the Minister –
- (a) is satisfied that the suspected disease is not present, or is not likely to become present, in the initial designation area; or

- (b) publishes a confirmed designation in respect of that area under Regulation 26(3).

25 Confirmed designation

- (1) If the Minister has confirmed that a notifiable disease or an emerging disease is present in aquatic animals in Jersey, the Minister must designate the area that he or she considers appropriate to prevent or limit the spread of that disease.
- (2) A person commits an offence and is liable to imprisonment for a term of 6 months and to a fine if, without the prior consent of the Minister, that person –
 - (a) moves an aquatic animal into, out of or within a confirmed designation area; or
 - (b) disposes of a dead aquatic animal that comes from that area.
- (3) The Minister may give consent for the purpose of paragraph (2) –
 - (a) to a particular person, in writing; or
 - (b) generally, to all persons or to a description of persons, by notice published by the Minister in a manner appearing to the Minister likely to bring it to the attention of those persons.

26 Contents and publication of a confirmed designation

- (1) A confirmed designation must –
 - (a) be in the form of a written notice;
 - (b) describe the confirmed designation area; and
 - (c) describe the circumstances in which a person commits an offence under Regulation 25(2).
- (2) A confirmed designation may specify either or both of the following restrictions –
 - (a) that any equipment, material or substance liable to transmit disease must not be moved into, out of or within the confirmed designation area or any part of that area;
 - (b) that any means of transport liable to transmit disease must not be moved into, out of or within that area or any part of that area.
- (3) The Minister must –
 - (a) publish a confirmed designation in such manner as the Minister considers appropriate; and
 - (b) serve a copy of a confirmed designation on any person the Minister considers likely to be materially affected by the making of the designation.
- (4) A person who contravenes a restriction imposed under paragraph (2) is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.

27 Actions by an inspector in respect of a confirmed designation

- (1) This Regulation applies if the Minister has made a confirmed designation.
- (2) An inspector may –
 - (a) take samples of any aquatic animal or water in the confirmed designation area; or
 - (b) slaughter, destroy or dispose of any such animal.
- (3) An inspector may by written notice direct any person to –
 - (a) take steps to secure the slaughter, destruction or disposal of any aquatic animal in the confirmed designation area;
 - (b) operate a disinfection facility at the entrance to, and exit from, any farm or mollusc farming area in that area;
 - (c) disinfect any means of transport in that area; or
 - (d) take any other steps that the inspector considers necessary to eradicate the disease or to prevent or limit the spread of the disease to other aquatic animals.
- (4) An inspector may by written notice prohibit any person from entering any farm or mollusc farming area within the confirmed designation area.
- (5) If an inspector considers that a requirement under paragraph (3) has not been complied with, the inspector may –
 - (a) enter any place within the confirmed designation area;
 - (b) take or cause to be taken such steps as the inspector considers necessary to –
 - (i) ensure compliance with the requirement, or
 - (ii) remedy the consequences of the failure to carry it out; and
 - (c) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the requirement.
- (6) A person who, without reasonable excuse, contravenes a requirement imposed under paragraph (3) or (4) is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.

28 Amendment, suspension and withdrawal of confirmed designation

- (1) The Minister may, by further written notice published and served in accordance with Regulation 26(3), amend, suspend or withdraw a confirmed designation.
- (2) The Minister must withdraw a confirmed designation when the Minister is satisfied that the notifiable disease or the emerging disease is not present in the confirmed designation area.

29 Vaccination

A person is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if, without the prior written consent of the Minister, that person vaccinates an aquatic animal against a notifiable disease.

30 Order pending approval under Article 43 of Directive 2006/88/EC

- (1) Paragraph (2) applies, in relation to a disease, other than a disease that is notifiable under Regulation 19(1)(a) or (b), if the Minister –
 - (a) considers that the disease should be subject in Jersey to a measure that requires approval under Article 43(2) of Directive 2006/88/EC;
 - (b) has applied for that approval for that measure, or intends to do so promptly; and
 - (c) considers that there are reasonable grounds for believing that the approval should be given.
- (2) The Minister may by Order –
 - (a) designate that disease for the purpose of this Regulation; and
 - (b) make such provision to give effect to that measure in relation to that disease as is permitted by Article 43 of Directive 2006/88/EC.
- (3) An Order made under this Regulation ceases to have effect if approval under Article 43(2) of Directive 2006/88/EC is refused or withdrawn.
- (4) Without prejudice to the generality of Article 11 of the Interpretation (Jersey) Law 1954⁹, the Minister must revoke an Order made under this Regulation if the Minister considers that the requirements of paragraph (1) are no longer met.

PART 6

ENFORCEMENT

31 Powers of enforcement under Diseases of Animals (Jersey) Law 1956

Articles 34, 34A, 34B and 35 of the Diseases of Animals (Jersey) Law 1956¹⁰ apply to and in relation to an aquaculture animal as if –

- (a) Parts 2 to 5 of these Regulations, Commission Regulation 1251/2008 and every relevant EU instrument were provisions of that Law;
- (b) an Order had been made under Articles 1(1) and 1(3) of that Law, for the purposes of Articles 34, 34A, 34B and 35 of that Law –
 - (i) extending the definition “animals”, in Article 1(1) of that Law, to include aquaculture animals, and
 - (ii) extending the definition “disease”, in Article 1(3) of that Law, to include notifiable diseases; and

- (c) Article 34A(7) of that Law was modified to include provision that the inspector may be accompanied by a representative of the European Commission acting for the purposes of Directive 2006/88/EC.

32 Enforcement notices

- (1) The Minister may serve a person with an enforcement notice if the Minister considers that the person has not complied with, is not complying with, or is not likely to comply with –
 - (a) a requirement of these Regulations, of Commission Regulation 1251/2008, or of a relevant EU instrument; or
 - (b) a condition of an authorization under Part 2.
- (2) An enforcement notice must state –
 - (a) the steps that the person must take;
 - (b) the date by which the steps must be taken;
 - (c) the reason for the service of the notice and for the requirements in it; and
 - (d) that there is a right to apply for reconsideration under Regulation 37.
- (3) If an inspector considers that a requirement of an enforcement notice has not been complied with, the inspector may –
 - (a) take such steps as the inspector considers necessary –
 - (i) to ensure compliance with the requirements of the notice, or
 - (ii) to remedy the consequences of the failure to take the steps required by the notice; and
 - (b) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the notice.
- (4) A person who, without reasonable excuse, fails to comply with an enforcement notice commits an offence, and is liable to imprisonment for a term of 6 months and to a fine.

33 Obstruction

- (1) A person commits an offence, and is liable to imprisonment for a term of 2 years and to a fine, if that person –
 - (a) intentionally obstructs another person who performs a relevant function;
 - (b) fails without reasonable cause to give to another person, who performs a relevant function, any assistance or information which that other person reasonably requires for the purpose of that function; or
 - (c) knowingly or recklessly gives false or misleading information to another person who performs a relevant function.

- (2) For the purpose of paragraph (1) a person performs a relevant function if that person acts in the execution of these Regulations, of Commission Regulation 1251/2008 or of a relevant EU instrument.

34 Enforcement under other enactments

The Minister may by Order amend –

- (a) Regulation 31, 32 or 33 to apply, in relation to an aquaculture animal and subject to any modification appearing to the Minister to be required for such application, any provision of any other enactment relating to agriculture or to the health or transport of animals or plants, being a provision that appears appropriate to the Minister for the enforcement of duties under these Regulations, under Commission Regulation 1251/2008 or under a relevant EU instrument; and
- (b) Regulation 1 to make any amendment consequential on an amendment under paragraph (a), or to amend the definition “inspector”.

35 Other offences of contravening Commission Regulation or EU instrument

A person, other than the Minister, an inspector or an EU institution, commits an offence and is liable to a fine of level 4 on the standard scale if the person, without reasonable excuse, contravenes a provision of Commission Regulation 1251/2008 or of a relevant EU instrument, the contravention of which is not an offence under any other provision of these Regulations.

36 Offences by bodies corporate and others

- (1) In this Regulation –

“relevant offence” means an offence under these Regulations that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;

“relevant person” means –

- (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
- (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
- (i) a general partner, or
- (ii) a limited partner who is participating in the management of the partnership;
- (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
- (i) a director, manager, secretary or other similar officer of the body corporate, and
- (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and

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- (d) a person purporting to act in any capacity described in subparagraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
 - (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
 - (3) If a relevant offence –
 - (a) is an offence that may be committed by neglect; and
 - (b) is proved to be attributable to any neglect on the part of a relevant person,that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

PART 7

MISCELLANEOUS

37 Reconsideration of Minister's decision

- (1) This Regulation applies to a decision of the Minister to do any of the following –
 - (a) to refuse to grant an authorization under Regulation 5;
 - (b) to attach a condition to an authorization under Regulation 6(3);
 - (c) to amend an authorization on the Minister's initiative under Regulation 7(3)(a);
 - (d) to refuse an application under Regulation 7(3)(b) for an amendment to an authorization;
 - (e) to suspend an authorization under Regulation 8;
 - (f) to revoke an authorization under Regulation 9;
 - (g) to serve an enforcement notice under Regulation 32.
- (2) The person served with notice of the decision may, within 21 days after that service, apply for reconsideration of the decision by making written representations about the decision to a person appointed for the purpose by the Minister.
- (3) The Minister may make written submissions concerning the decision to the person appointed.
- (4) The person appointed must review the decision and report in writing to the Minister on the decision, the representations and any submissions.
- (5) The Minister must reconsider the decision, having regard to the report, and make a final determination.

- (6) The Minister must serve written notice of the final determination, giving reasons, on the person who made the representations.
- (7) An application for reconsideration of a decision does not suspend the effect of that decision, unless the Minister provides otherwise under paragraph (8).
- (8) The Minister may, in the notice of a decision falling within paragraph (1)(c), (e) or (f), provide that the decision does not take effect until –
 - (a) if the person served does not apply for reconsideration within the period for doing so under paragraph (2), the expiry of that period; or
 - (b) if that person does apply for reconsideration within that period, the date on which that application is withdrawn or the Minister serves notice under paragraph (6).

38 Power to prescribe fees

- (1) The Minister may, by Order, prescribe a fee for –
 - (a) an application for, or the grant or issue of, a certificate, approval, authorization or registration under these Regulations, under Commission Regulation 1251/2008 or under a relevant EU instrument; or
 - (b) an inspection, test or official examination carried out –
 - (i) under these Regulations, Commission Regulation 1251/2008 or a relevant EU instrument,
 - (ii) under a condition imposed, by or under Regulation 6 (including such a condition amended under Regulation 7), on an authorization under Part 2, or
 - (iii) for the purpose of determining an application mentioned in sub-paragraph (a).
- (2) If a fee is prescribed under paragraph (1), without prejudice to any other method of recovery –
 - (a) the fee is recoverable as a civil debt; and
 - (b) the Minister or an inspector may, if the fee is for or in respect of the exercise of a function by the Minister or by the inspector, refuse to exercise that function until the fee has been paid.
- (3) In exercising the powers conferred by this Regulation, the Minister must comply with any restriction contained in Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1), irrespective of whether that restriction has effect in Jersey by virtue of Regulation 2(2) or by virtue of the European Union (Jersey) Law 1973¹¹.
- (4) Paragraph (3) is without prejudice to any other restriction on the power of the Minister under this Regulation, whether that restriction arises under

these Regulations, under Directive 2006/88/EC, under Commission Regulation 1251/2008, under a relevant EU instrument, or otherwise.

39 Electronic communication of notices

Article 11 of the Electronic Communications (Jersey) Law 2000¹² applies to any requirement of these Regulations for the Minister to serve a written notice, as it applies to a requirement to give information in writing.

40 Orders – supplementary and other provisions

Each power under these Regulations to make an Order includes power to make any supplementary, incidental, consequential, transitional, transitory or saving provision that appears to the Minister to be necessary or expedient for the purpose of the Order.

41 Repeal

- (1) The Fish Health (Jersey) Regulations 1999¹³ are repealed.
- (2) The Community Provisions (Mortality in Oysters) (Jersey) Regulations 2010¹⁴ are repealed.
- (3) The Diseases of Animals (Importation of Live Fish) (Jersey) Order 1984¹⁵ is revoked.

42 Citation and commencement

These Regulations may be cited as the EU Legislation (Aquatic Animal Health) (Jersey) Regulations 2016, and come into force 2 weeks after they are made, except for –

- (a) Regulation 3(1), which comes into force 6 weeks after these Regulations are made; and
- (b) Regulation 10(1), which comes into force 13 weeks after these Regulations are made.

DR. M. EGAN

Greffier of the States

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- 1 *chapter 17.245*
 - 2 *chapter 02.400*
 - 3 *chapter 17.245*
 - 4 *chapter 17.210*
 - 5 *chapter 22.450*
 - 6 *chapter 14.825.24*
 - 7 *chapter 17.245.98*
 - 8 *chapter 02.050*
 - 9 *chapter 15.360*
 - 10 *chapter 02.400*
 - 11 *chapter 17.210*
 - 12 *chapter 04.280*
 - 13 *R&O.9463 (chapter 17.245.60)*
 - 14 *R&O.81/2010 (chapter 17.245.12)*
 - 15 *R&O.7253 (chapter 02.400.18)*