

Statutory Rules of Northern Ireland 1998 No. 310

Fish Health Regulations (Northern Ireland) 1998 - *continued*

The Department of Agriculture, being a Department designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Part I

Introductory

Citation and commencement

1. These Regulations may be cited as the Fish Health Regulations (Northern Ireland) 1998 and shall come into operation on 16th October 1998.

Interpretation

2. - (1) In these Regulations -

"approved farm" means a farm complying, as the case may be, with the requirements of Annex CI, II or III of the Directive and approved as such in accordance with Article 6 thereof;

"approved storage centre" means a storage centre or purification centre approved by the Department as meeting the requirements set out in Part II of Schedule 5;

"approved water station" means a water station approved by the Department as meeting the requirements set out in Part I of Schedule 5;

"approved zone" means a zone complying, as the case may be, with the provisions of Annex BI, II or III of the Directive and approved as such in accordance with Article 5 thereof;

"aquaculture animals" means live fish, crustaceans or molluscs coming from a farm, including those from the wild intended for a farm;

"aquaculture products" means products derived from aquaculture animals, whether intended for farming, such as eggs and gametes, or for human consumption;

"Commission Decision 93/55/EEC" means Commission Decision of 21st December 1992 amending the guarantees for the introduction of molluscs into zones for which a programme for *Bonamia ostreae* and *Marteilia refringens* has been approved^[3] as amended by Commission Decision 93/169/EEC of 19th February 1993 amending Decision 93/55/EEC concerning the guarantees for certain molluscs^[4];

"Commission Decision 96/490/EC" means Commission Decision of 18th July

1996 on certain protective measures with regard to *Gyrodactylus salaris* in salmonids[5] as amended by Commission Decision 98/24/EC of 15th December 1997 amending Decision 96/490/EC concerning certain protective measures in salmonids[6];

"dead fish" includes any part of a dead fish;

"the Department" means the Department of Agriculture for Northern Ireland;

"the Directive" means Council Directive 91/67/EEC of 28th January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products[7] which has been amended by and must be read with the provisions set out in Part I of Schedule 6;

"Directive 95/70/EC" means Council Directive 95/70/EC of 22nd December 1995 introducing minimum Community measures for the control of certain diseases affecting bivalve molluscs[8];

"eggs" means fertilised ova (including eyed ova and any associated fluid) of fish, crustaceans or molluscs;

"European Inspector" means a Commission expert or a Commission veterinary expert acting with regard to the Directive or Council Directive 95/70/EC;

"farm" means any establishment or, in general, any geographically defined installation in which aquaculture animals are reared or kept with a view to their being placed on the market;

"farmed" in relation to a fish, crustacean or mollusc means a fish, crustacean or mollusc at or from a farm;

"fish, crustaceans or molluscs" means any fish, crustacean or mollusc at any stage of development;

"Form A" means a movement document for live fish, eggs and gametes from an approved zone in the form set out in the Directive which is completed, in respect of live fish, eggs and gametes of the salmonid species, in accordance with the provisions of Commission Decision 96/490/EC;

"Form B" means a movement document for live fish, eggs or gametes from an approved farm in the form set out in the Directive which is completed in respect of salmonid ova for breeding purposes, with a certification that the eggs have been disinfected in accordance with the requirements of Article 2 of Commission Decision 96/490/EC;

"Form C" means a movement document for molluscs from an approved coastal zone in the form set out in the Directive;

"Form D" means a movement document for molluscs from an approved farm in the form set out in the Directive;

"Form E" means a movement document for live farmed fish, molluscs and crustaceans, their eggs and gametes referred to in Article 14 paragraph 1 of the Directive in the form set out in Commission Decision 93/22/EEC[9];

"Form F" means a movement document for live wild fish, molluscs, or crustaceans, their eggs and gametes referred to in Article 14 paragraph 2 of the Directive in the form set out in Commission Decision 93/22/EEC;

"Form G" means a movement document completed by the Official Service, certifying that the consignment of molluscs originates from an area where there has been no history of *bonamiosis* or *martellosis* in the previous two years confirmed by tests as provided for in Commission Decision 93/55/EEC;

"Form H" means a movement document completed by the Official Service, certifying that the consignment of molluscs have been submitted at the place of despatch to a check ensuring that it does not contain species other than *Crassostrea gigas*, as required by Commission Decision 93/55/EEC;

"Form I" means a movement document completed by the Official Service, certifying that the site of origin complies with the conditions of Commission Decision 93/44/EEC of 21st December 1992[10], as amended by Commission Decision 94/865/EEC of 20th December 1994[11], approving the programmes concerning spring viraemia of carp submitted by the United Kingdom, and defining the additional guarantees for certain fish species for consignment to Northern Ireland, Great Britain, the Isle of Man and Guernsey;

"gametes" means sperm or unfertilised ova and any associated fluid of fish, crustaceans or molluscs;

"health inspection" means a visit by an Official Service or Services for the purpose of conducting health checks on a farm or approved zone;

"infected" means infected with a disease listed in Schedule 1;

"movement document" means a document duly completed and -

- (i) in the case of Form A, Form B, Form C and Form D corresponding to the forms set out in the Directive;**
- (ii) in the case of Form E and Form F corresponding to the forms set out in Commission Decision 93/22/EEC; and**
- (iii) in the case of Form G, H and Form I complying with these Regulations;**

"Northern Ireland" includes the territorial waters of the United Kingdom adjacent to Northern Ireland;

"Official Service" means the veterinary service or any other service of equivalent level designated by the competent authority of a Member State or third country responsible for carrying out the controls provided for in the Directive and shall include the appropriate United Kingdom Official Service;

"placing on the market" means holding or displaying for sale, offering for sale, selling, delivering, transferring or any other form of placing on the market in the European Community, with the exception of retail sale;

"premises" includes any place, farm or installation in which aquaculture animals are kept, any vehicle, ship, vessel, boat, craft, hovercraft or aircraft;

"United Kingdom Official Service" means -

- (a) in relation to England, the official service appointed by the Minister of Agriculture, Fisheries and Food;**
- (b) in relation to Scotland and Wales, the Official Service appointed by the**

Secretary of State; and

(c) in relation to Northern Ireland, the Department;

"veterinary inspector" means a person appointed by the Department for the purposes of these Regulations;

"wild" in relation to a fish, crustacean or mollusc means any fish, crustacean or mollusc which is not a farmed fish, crustacean or mollusc.

(2) The Interpretation Act (Northern Ireland) 1954[12] shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Part II

General

Placing on the market of aquaculture animals and aquaculture products

3. - (1) A person shall not place on the market -

(a) aquaculture animals unless they meet the requirements set out in paragraph (2);

(b) aquaculture products for breeding purposes unless they are derived from aquaculture animals which meet the requirements set out in paragraph (2); or

(c) aquaculture products for human consumption unless they are derived from aquaculture animals which meet the requirements set out in paragraph (2)(a).

(2) The requirements for aquaculture animals referred to in paragraph (1) are -

(a) where placing on the market involves the loading of aquaculture animals, they shall not show clinical signs of disease on the day of loading;

(b) they shall not be intended for destruction or slaughter under a scheme for the eradication of a disease referred to in Annex A of the Directive;

(c) they shall not come from a farm which is subject to a prohibition which has been imposed for aquaculture animal health reasons; and

(d) they shall not have been in contact with aquaculture animals from a farm which is subject to a prohibition which has been imposed for aquaculture animal health reasons.

(3) The provisions of this regulation are without prejudice to the provisions of regulations 4, 5, 9 and 10 of the Diseases of Fish (Control) Regulations (Northern Ireland) 1996[13].

Transportation of aquaculture animals

4. - (1) A person shall not transport aquaculture animals unless the requirements set out in paragraph (2) are met.

(2) The requirements for the transport of aquaculture animals referred to in paragraph (1) are that -

- (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 animals are loaded;**
- (c) if the aquaculture animals are transported overland in water, they shall be transported in such a manner that the water cannot escape from the vehicle during transport;**
- (d) all reasonable steps shall be taken to safeguard the health of the aquaculture animals, including, if appropriate, changing the water in which they are transported; and**
- (e) any water used in the transport of the aquaculture animals shall only be changed at an approved water station.**

Identification of aquaculture animals and aquaculture products

5. - (1) A person shall not despatch a consignment of 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) where a movement document is required by these Regulations to accompany the consignment, enables the aquaculture animals or aquaculture products comprising the consignment to be linked to that movement document.**

(2) The information referred to in paragraph (1) shall be provided on the container for the consignment to which it relates or on a label fixed to the container or on the movement document accompanying the consignment.

Part III

Movement within the European Community

Validity of Movement Documents

6. - (1) A movement document is not valid unless -

- (a) it is drawn up at the place of origin of the aquaculture animals or aquaculture products to which it relates by the Official Service of the Member State in which that farm or place is situated;**
- (b) it is in the official language or languages of the place of destination of the aquaculture animals or aquaculture products to which it relates;**
- (c) it is drawn up on a single sheet of paper; and**

(d) it is made out for a single consignee.

(2) A movement document is not valid when -

(a) it is drawn up more than 48 hours before the aquaculture animals or aquaculture products to which it relates are loaded for despatch;

(b) the movement to which it relates has not been completed within 10 days of its issue;

(c) it is used in connection with aquaculture animals and aquaculture products other than those in respect of which it is issued; or

(d) it has been incorrectly issued by an Official Service.

(3) For the purposes of this regulation the expression "place of origin" shall have the same meaning as it has in Article 11 of the Directive.

Introduction of live fish, eggs and gametes

7. - (1) Subject to paragraph (2), a person shall not introduce into a zone specified in column (2) of Schedule 2 from elsewhere in the European Communities, or subsequently move within that zone, any live fish, eggs or gametes specified opposite thereto in column (3) unless they are accompanied by valid movement documents in the form specified opposite thereto in column (4) confirming that -

(a) they come from an area free from the disease specified in column (5) opposite the reference to such movement document; or

(b) where a movement document does not require that they come from an area free from such disease, they fulfil the conditions set out in that movement document.

(2) The provisions of this regulation shall not apply to tropical fish kept permanently in aquaria.

Introduction of dead fish

8. A person shall not introduce into a zone specified in column (2) of Schedule 3 from elsewhere in the European Community dead fish specified opposite thereto in column (3) unless they comply with the conditions specified opposite thereto in column (4).

Introduction of live molluscs, eggs and gametes

9. - (1) Subject to paragraph (3), a person shall not introduce into a zone specified in column (2) of Schedule 4 from elsewhere in the European Community or subsequently move within that zone any live molluscs, eggs or gametes specified opposite thereto in column (3) with the intention of relaying them unless they are accompanied by valid movement documents in the form specified opposite thereto in column (4) confirming that -

(a) they come from an area free from the disease specified in column (5) opposite the reference to such movement document; or

(b) where a movement document does not require that they come from an area free from such disease they fulfil the conditions set out in that movement

document.

(2) Subject to paragraph (3), a person shall not relay in a zone specified in column (2) of Schedule 4 any live molluscs, eggs or gametes specified opposite thereto in column (3) from outside that zone unless they are accompanied by valid movement documents in the form specified opposite thereto in column (4) confirming that -

(a) they come from an area free from the disease specified in column (5) opposite the reference to such movement document; or

(b) where a movement document does not require that they come from an area free from such disease, they fulfil the conditions set out in that movement document.

(3) Paragraphs (1) and (2) shall not apply to the relaying of live molluscs, eggs or gametes when they are relaid in an approved storage centre.

(4) For the purposes of this regulation -

"coastal zone" means any waters lying below the high water mark on the ordinary spring tides and any land adjacent to such waters;

"relaying" in relation to molluscs means the deposit or immersion of molluscs in a coastal zone.

Quarantine requirements for introductions of wild fish, molluscs and crustaceans for breeding purposes

10. - (1) Subject to paragraph (2), a person shall not introduce into an approved zone or an approved farm any wild fish, molluscs, crustaceans, their eggs or gametes, which have been caught in the deep sea and which are to be used for breeding purposes unless those fish, molluscs, crustaceans, eggs or gametes are first placed in quarantine in suitable facilities and in such conditions as the Department may determine.

(2) The provisions of this regulation shall not apply to tropical fish kept permanently in aquaria.

Export to other parts of the European Community of aquaculture animals and aquaculture products from Northern Ireland

11. - (1) A person shall not export from Northern Ireland to another part of the European Community any aquaculture animal or aquaculture product which does not meet or is not despatched in accordance with, the requirements of the relevant provisions of the Directive (including any option permitted by the Directive which has been exercised in relation to its destination) or which is not accompanied by any documents required under the Directive.

(2) For the purposes of this regulation the relevant provisions of the Directive are Articles 3, 4, 7 to 11 inclusive, 14 and 16.

Part IV

Disease and Powers

Notification of disease

12. - (1) Any person who -

- (a) knows of any observed abnormal mortality amongst bivalve molluscs in farms, farming areas, harvested natural beds, or purification centres or storage tanks which discharge water into the sea;**
- (b) knows of any symptom amongst fish or molluscs which might constitute grounds for suspecting the presence of a disease listed in Schedule 1; or**
- (c) has any other reason for suspecting the presence amongst fish or molluscs of a disease listed in Schedule 1;**

shall notify the Department of that fact as quickly as possible.

(2) Any person who has in his possession or under his charge an infected item, or an item which he suspects is an infected item, shall detain it until -

- (a) it has been examined by a veterinary inspector; or**
- (b) a veterinary inspector has instructed him to dispose of it.**

(3) Where a veterinary inspector has given an instruction to any person under paragraph (2) to dispose of an infected item, or an item which is suspected of being infected, that person shall comply with that instruction.

(4) A veterinary inspector shall have powers to take such samples of or from fish or molluscs as may be necessary to establish whether a disease listed in Schedule 1 is present amongst fish or molluscs.

(5) For the purposes of this regulation -

"item" means a fish or mollusc or the carcase or part of the carcase of a fish or mollusc; and

"observed abnormal mortality" shall have the meaning it is given in Article 2 of Directive 95/70/EC.

Powers - diseases of fish

13. If the result of a test for the presence in any fish of a disease listed in Schedule 1 is positive, the Department may, by notice in writing served on the person appearing to have charge of those fish or any facilities or equipment which have or may have been in contact therewith -

- (a) require the slaughter of all fish in farms where infected fish are present;**
- (b) require the destruction of all infected fish or contaminated fish; and**
- (c) require the disinfection of such of those facilities and equipment as may be specified in the notice.**

Powers - diseases of molluscs

14. - (1) If a veterinary inspector has reasonable grounds for suspecting the presence

of a disease listed in Schedule 1 amongst molluscs he may -

- (a) by notice in writing served on the person appearing to have charge of any molluscs kept on such premises as are specified in the notice, prohibit the movement of any molluscs on to or off such premises; or**
- (b) by notice in writing served on any person appearing to him to be appropriate, prohibit the taking of any molluscs from any area as is specified in the notice,**

except under the written authority of the Department.

(2) A notice served on any person under paragraph (1) shall remain in force until withdrawn by a further notice in writing served by a veterinary inspector on the same person.

(3) If the result of a test for the presence in any molluscs of a disease listed in Schedule 1 is positive, the Department may, by notice in writing served on the person appearing to have charge of those molluscs or any facilities or equipment which have or may have been in contact therewith -

- (a) require the destruction of all infected or contaminated molluscs; and**
- (b) require the disinfection of such of those facilities and equipment as may be specified in the notice.**

Powers of veterinary inspector

15. - (1) A veterinary inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter any premises for the purposes of ascertaining whether there is or has been on those premises any contravention of these Regulations.

(2) A veterinary inspector shall have powers to carry out all checks and examinations necessary for the enforcement of these Regulations, and in particular may -

- (a) carry out inspections of any premises;**
- (b) take samples of or from aquaculture animals or aquaculture products;**
- (c) examine relevant documentary or computer material.**

(3) A veterinary inspector shall have powers to make such inspections and take such samples as may be necessary to carry out the health inspections, sampling plans and diagnostic methods established by the Directive or Directive 95/70/EC.

(4) A veterinary inspector entering any premises under these Regulations may take with him such persons, equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under these Regulations.

Failure to comply with a notice

16. If any person fails to comply with the requirements of a notice served under these Regulations or any instruction given under Regulation 12(2) then, without prejudice to

any proceedings consequent upon such failure, a veterinary inspector may enter on any premises to which such notice or instruction relates and take or cause to be taken such steps as appear to the veterinary inspector to be necessary either to ensure compliance with the requirements of the notice or instruction, as the case may be, or to remedy the consequences of contravention thereof, and all reasonable costs of taking such steps shall be recoverable by the Department from the person on whom the notice was served or to whom the instruction was given as the case may be.

Notes:

- [1] S.I. 1972/1811[back](#)
 - [2] 1972 c. 68[back](#)
 - [3] O.J. No. L14, 22.1.93, p. 24[back](#)
 - [4] O.J. No. L71, 24.3.93, p. 16[back](#)
 - [5] O.J. No. L202, 10.8.96, p. 21[back](#)
 - [6] O.J. No. L26, 14.1.98, p. 8[back](#)
 - [7] O.J. No. L46, 19.2.91, p. 1[back](#)
 - [8] O.J. No. L332, 30.12.95, p. 33[back](#)
 - [9] O.J. No. L16, 25.1.93, p. 8[back](#)
 - [10] O.J. No. L16, 25.1.93, p. 53[back](#)
 - [11] O.J. No. L352, 31.12.94, p. 75[back](#)
 - [12] 1954 c. 33 (N.I.)[back](#)
 - [13] S.R. 1996 No. 16[back](#)
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