

Statutory Instrument 1994 No. 1447

The Diseases of Fish (Control) Regulations 1994

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STATUTORY INSTRUMENTS

1994No. 1447

RIVER, ENGLAND AND WALES

RIVER, SCOTLAND

**SALMON AND FRESHWATER FISHERIES
SEA FISHERIES**

The Diseases of Fish (Control) Regulations 1994

Made 26th May 1994

Laid before Parliament 10th June 1994

Coming into force 1st July 1994

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers 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 Economic Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, extent and commencement

1. These Regulations which implement Council Directive 93/53/EEC^[3] may be cited as the Diseases of Fish (Control) Regulations 1994, shall apply to Great Britain and shall come into force on 1st July 1994.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"the Act" means the Diseases of Fish Act 1937^[4];

"Directive 90/667/EEC" means Council Directive of 27th November 1990 laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedingstuffs of animal or fish origin^[5] which has been amended as set out in Schedule 1;

"Directive 91/67/EEC" means Council Directive of 28th January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products^[6] which has been amended as set out in Schedule 1;

"farm" includes a farm in marine waters;

"farm suspected of being infected" means a farm containing fish suspected of being infected;

"fish suspected of being infected" means fish showing clinical signs or post mortem lesions or dubious reactions in laboratory tests giving rise to reasonable suspicion of the presence of a disease which is listed in Schedule 3;

"infected farm" means a farm containing infected fish as well as a farm which has been evacuated but not yet disinfected;

"infected fish" means fish in which the presence of a disease listed in Schedule 3 has been officially confirmed as the result of laboratory examination or, in the case of Infectious Salmon Anaemia as a result of a clinical examination and a post mortem examination;

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

"Minister" means, in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Scotland or to Wales, the Secretary of State.

(2) All other expressions have the meaning they bear in the Fish Health Regulations 1992^[7].

(3) Any reference in these Regulations to a numbered Schedule shall be construed as a reference to the Schedule so numbered in these Regulations unless the context otherwise requires.

(4) Any reference in these Regulations to a directive is to that directive as amended.

(5) All notices served under these Regulations shall be in writing and may be made subject to conditions and may be amended, suspended or revoked in writing at any time.

Official census

3.—(1) Where a farm is suspected of being infected, as soon as possible after a notice in respect of it has been served under section 4 or 4A of the Act or an Order in respect of it has been made under section 2 of the Act, the Minister shall conduct a census of the fish on the farm.

(2) The census shall contain the information set out in Schedule 2.

(3) After the census has been conducted it shall be the duty of the occupier of the farm to check regularly and to note—

- (a) any increased population, or
- (b) new mortality

of the fish on the farm and to update the census accordingly.

(4) The census shall be kept in such a place that it shall be available to the Minister or an inspector when an inspection of the farm is carried out.

(5) The census shall be retained by the occupier of the farm for a period of 4 years after the notice under section 4 or 4A has lapsed or any order under section 2 of the Act has been revoked, whichever is the later.

(6) The census shall be made available to the Minister or an inspector on request.

Control measures when disease in Part I of Schedule 3 is suspected on a farm

4.—(1) Without prejudice to the provisions of the Act or the Fish Health Regulations 1992, where a farm is suspected of being infected with a disease listed in Part I of Schedule 3, as soon as possible after a notice in respect of it has been served under section 4 or 4A of the Act or an Order in respect of it has been made under section 2 of the Act, the measures set out in Schedule 4 shall come into force.

(2) The measures referred to in paragraph (1) above shall remain in force until revoked or varied or varied by notice by the Minister.

(3) It shall be the duty of the occupier of the farm to take all reasonable steps to ensure that effect is given to the provisions of Schedule 4.

Control measures if presence of a disease in Part I of Schedule 3 is confirmed on a farm

5. If the fish on a farm are confirmed as infected fish which have a disease listed in Part I of Schedule 3, the Minister shall, by notice in writing served on the occupier of the farm, require—

- (a) the immediate removal of all fish from the waters of the farm;
- (b) the draining, cleaning and disinfection of all pools on inland farms;
- (c) the destruction of all eggs, gametes, dead fish, and fish showing clinical signs of disease, under the supervision of the Minister and in accordance with the provisions of Directive 90/667/EEC;
- (d)

- (i) the killing and destruction of all live fish, under the supervision of the Minister and in accordance with the provisions of Directive 90/667/EEC;

or

- (ii) the slaughter of all live fish, for marketing or processing for human consumption, under the supervision of the Minister, but only if the fish have reached commercial size and show no clinical signs of disease;

- (e) the cleaning and disinfection or destruction of equipment, material or substances liable to be contaminated with the disease pathogen, under the supervision of the Minister; and

- (f) that the repopulation of the farm shall only take place when the Minister so authorises by notice.

Control measures when a disease in Part II of Schedule 3 is suspected in an approved zone or on an approved farm

6.—(1) Without prejudice to the provisions of the Act or the Fish Health Regulations 1992, where a farm is either—

- (a) a farm in an approved zone; or
- (b) an approved farm which is not in an approved zone;

and is suspected of being infected with a disease listed in Part II of Schedule 3, as soon as possible after a notice in respect of it has been served under section 4 or 4A of the Act or an Order in respect of it has been made under section 2 of the Act, the measures set out in Schedule 4 shall come into force.

(2) The measures referred to in paragraph (1) above shall remain in force until revoked or varied by notice by the Minister.

(3) It shall be the duty of the occupier of the farm to take all reasonable steps to ensure that effect is given to the provisions of Schedule 4.

Control measures when a disease listed in Part II of Schedule 3 is confirmed in an approved zone or on an approved farm

7. If the fish on a farm which is either—
- (a) a farm in an approved zone; or
 - (b) an approved farm which is not in an approved zone;
- are confirmed to be infected fish which have a disease listed in Part II of Schedule 3, the Minister shall, by notice in writing served on the occupier of the farm, require—
- (i) the immediate removal of all fish from the waters of the farm;
 - (ii) the draining, cleaning and disinfection of all pools on inland farms;
 - (iii) the destruction of all eggs, gametes, dead fish, and fish showing clinical signs of disease, under the supervision of the Minister and in accordance with the provisions of Directive 90/667/EEC;
 - (iv)
 - (aa) the killing and destruction of all live fish, under the supervision of the Minister and in accordance with the provisions of Directive 90/667/EEC; or
 - (bb) the slaughter of all live fish, for marketing or processing for human consumption, under the supervision of the Minister, but only if the fish have reached commercial size and show no clinical signs of disease;
 - (v) the cleaning and disinfection or destruction of equipment, material or substances liable to be contaminated with the disease pathogen, under the supervision of the Minister; and
 - (vi) that the repopulation of the farm shall only take place when the Minister so authorises by notice.

Control measures to be taken when a disease listed in Part II of Schedule 3 is suspected at a non-approved farm in a non-approved zone

- 8.—(1) Without prejudice to the provisions of the Act or the Fish Health Regulations 1992, where a farm is—
- (a) not an approved farm,
 - (b) not in an approved zone, and
 - (c) suspected of being infected with a disease listed in Part II of Schedule 3,
- as soon as possible after a notice in respect of it has been served under section 4 or 4A of the Act or an Order in respect of it has been made under section 2 of the Act, the measures set out in paragraph (2) below shall come into force.

(2) No person shall remove any live fish, eggs or gametes from the farm unless the live fish, eggs or gametes

- (a) are to be sent to a farm infected with the same disease; or
 - (b) are to be sent for slaughter for human consumption;
- and he has the authorisation in writing of the Minister.

(3) Any authorisation under paragraph (2) above may be made subject to conditions.

(4) The provisions in paragraph (2) above shall remain in force until such time as

the notice made under section 4 or 4A of the Act or any Order made under section 2 of the Act is revoked or varied.

Control measures to be taken when a disease listed in Schedule 3 is suspected or confirmed in waters which are not the waters of a farm

9.—(1) Where—

(a) fish from the wild are suspected of being infected with, or are infected with, a disease listed in Part I of Schedule 3; or

(b) fish from the wild which are in an approved zone are suspected of being infected with, or are infected with, a disease listed in Part II of Schedule 3;

and an Order has been made under section 2 of the Act paragraphs (2) and (3) below shall come into force.

(2) No person shall—

(a) bring on to or take from the designated area any equipment, material or substances liable to transmit disease; or

(b) enter on to or exit from the designated area; or

(c) bring a vehicle into or take a vehicle from the designated area;

without the authorisation in writing of the Minister to do so.

(3) The occupier of the land or waters within the designated area shall take the measures specified by the Minister to disinfect the entrances and exits to the designated area.

(4) For the purpose of this regulation—

"designated area" means the area which is the subject of an Order made under section 2 of the Act.

Prohibition on vaccination against disease

10.—(1) No person shall vaccinate any fish or cause any fish to be vaccinated against any disease listed in Part I of Schedule 3.

(2) No person shall vaccinate any fish or cause any fish to be vaccinated against any disease listed in Part II of Schedule 3 where the fish are—

(a) in an approved zone; or

(b) in an approved farm which is not in an approved zone; or

(c) in a zone or farm which has initiated the procedures to obtain approved status under Directive 91/67/EEC.

Powers of an inspector

11.—(1) An 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 land or premises for the purpose of ascertaining whether there is or has been on the land or premises any contravention of these Regulations.

(2) An 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 farms;

(b) take samples (and, if necessary, send the samples for laboratory testing);

(c) examine relevant documentary or data processing material.

(3) An inspector entering any premises under these Regulations may take with him:

- (a) such persons, equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under these Regulations;
- (b) a representative of the European Commission acting for the purposes of Council Directive 93/53/EEC.

Failure to comply with a notice

12. If any person fails to comply with the requirements of a notice served under these Regulations then, without prejudice to any proceedings consequent upon such failure, an inspector may enter on any premises to which such notice relates and take or cause to be taken such steps as appear to the inspector to be necessary either to ensure compliance with the requirements of the notice or to remedy the consequences of the failure to carry them out, and all reasonable costs of taking such steps shall be recoverable by the Minister from the person on whom the notice was served.

Obstruction

13.—(1) No person shall—

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the purposes of his functions under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which he knows to be false or misleading.

(2) Nothing in paragraph (1)(c) above shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

Offences by bodies corporate

14.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been 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 such capacity, he, as well as the body corporate, shall be guilty of an offence and be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, "director" in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Offences and penalties

15.—(1) A person contravening any provision of these Regulations or any notice served under them shall be guilty of an offence.

(2) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Amendment of the Registration of Fish Farming and Shellfish Farming

Businesses Order 1985

16. The Registration of Fish Farming and Shellfish Farming Businesses Order 1985^[8] shall be amended as set out in Schedule 5.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

Gillian Shephard

Minister of Agriculture, Fisheries and Food

26th May 1994.

Hector Monro

Parliamentary Under Secretary of State, Scottish Office

24th May 1994

Notes:

[1] S.I. 1972/1811. [back](#)

[2] 1972 c. 68. [back](#)

[3] OJ No. L 175, 19.7.93, p. 23. [back](#)

[4] 1937 c. 33, as amended by the Diseases of Fish Act 1983 (c. 30). [back](#)

[5] OJ No. L 363, 27.12.90, p. 51, as read with the provisions listed in Schedule 1. [back](#)

[6] OJ No. L 46, 19.2.91, p. 1, as read with the provisions listed in Schedule 1. [back](#)

[7] S.I. 1992/3300, as amended by S.I. 1993/2255. [back](#)

[8] S.I. 1985/1319. [back](#)

Explanatory Note



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