

STATUTORY INSTRUMENTS.

**S.I. No. 26 of 1999.**

**EUROPEAN COMMUNITIES (MINIMUM MEASURES  
FOR THE CONTROL OF CERTAIN DISEASES AFFECTING BIVALVE  
MOLLUSCS) REGULATIONS, 1999.**

I, Michael Woods, Minister for the Marine and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving full effect to Council Directive 95/70/EC<sup>1</sup> of 22 December 1995, hereby make the following regulations:

<sup>1</sup> O.J. No. L332/33 of 30.12.95.

1. (1) These Regulations may be cited as the European Communities (Minimum measures for the control of certain diseases affecting bivalve molluscs) Regulations, 1999.

(2) These Regulations shall come into operation on the 15th day of February, 1999.

2. (1) In these Regulations—

"Council Directive" means Council Directive 95/70/EC<sup>1</sup> of 22 December 1995;

<sup>1</sup> O.J. No. L332/33 of 30.12.95.

"the Minister" means the Minister for the Marine and Natural Resources;

"national reference laboratory" means the body designated under Regulation 13;

"rearing" includes cultivation;

"the Regulations of 1996" means the European Communities (Aquaculture Animals and Fish) (Placing on the market and Control of Certain Diseases) Regulations, 1996 (S.I. No. 253 of 1996);

"purification centre" includes a purification centre which discharges water into the sea;

"sample" shall be construed in accordance with Regulation 8(5);

"storage tank" includes a storage tank which discharges water into the sea.

(2) A word or expression that is used in these Regulations and is also used in the Council Directive, has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Council Directive.

(3) In these Regulations—

(a) a reference to a Regulation or a Schedule is a reference to a Regulation of or a Schedule to these Regulations unless it is indicated that reference to some other Regulations is intended, and

(b) a reference to a paragraph or a subparagraph, is a reference to the paragraph or the subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

3. (1) A person engaged in the rearing of bivalve molluscs shall establish and maintain a record of—

(a) particulars of the delivery of all live bivalve molluscs to the place where such rearing occurs and such particulars shall specify the size, origin and the number or weight of such bivalve molluscs,

(b) particulars of all bivalve molluscs removed from the place where such rearing occurs for reimmersion and such particulars shall specify—

- (i) the removal, dispatch and destination, and
- (ii) the size and number or weight,

of such bivalve molluscs, and

(c) any observed abnormal mortality.

(2) The person maintaining the records specified in paragraph (1) shall make such records available for inspection by the Minister at all times as may be required.

(3) The person maintaining the records shall ensure that the records concerned will be retained for a period of 4 years.

(4) A person who contravenes the provision of paragraph (1), (2) or (3) shall be guilty of an offence.

4. The Minister shall establish and maintain a register for persons engaged in the rearing of bivalve molluscs.

5. (1) The Minister shall establish a monitoring and sampling programme of bivalve mollusc farms, farming areas and harvested natural beds for the

purposes of the detection of any abnormal mortality and monitoring the health of stocks of bivalve molluscs.

(2) The monitoring and sampling programme established under paragraph (1) may include monitoring and sampling at purification centres and storage tanks.

6. (1) Where abnormal mortality is observed, or the Minister is of the opinion that a disease may be present, at a place where the rearing of bivalve molluscs occurs, the Minister shall—

(a) prepare a list of such places, subject to paragraph (2), where a disease that is specified in List II of Schedule 1; Regulation 2, 4 and 12 of S.I. 253 of 1996 has been found to exist,

(b) prepare a list of such places in respect of which—

(i) abnormal mortality, caused by a disease specified in the Schedule, has been observed, or

(ii) a disease specified in the Schedule may, in the opinion of the Minister, be present at such place, and

(c) monitor the evolution and geographical spread of the diseases referred to in subparagraph (a) and (b).

(2) A place where the rearing of bivalve molluscs occurs shall not be included in the list specified in paragraph (1)(a) if a disease referred to in that paragraph is the subject of a programme approved pursuant to the Regulations of 1996.

7. A person who believes that a disease referred to in Regulation 6, or observes abnormal mortality in bivalve molluscs, in a farm, farming area, harvested natural beds or purification centres or storage tank shall notify the Minister of such belief or observation immediately.

8. (1) The Minister, following a notification referred to in Regulation 7, shall direct the national reference laboratory to take samples and examine from the farm, farming area, harvested natural bed, purification centre or storage tank concerned.

(2) Where, in accordance with paragraph (1) samples have been taken for examination, the person engaged in the rearing of bivalve molluscs in the farm, farming area, harvested natural bed, purification centre or storage tank concerned shall not, subject to paragraph (3), permit bivalve molluscs to be removed from such farm, farming area, harvested natural bed, purification centre or storage tank for the purpose of relaying or reimmersing such bivalve molluscs in another farm or aquatic environment.

(3) Paragraph (2) shall not apply where the Minister has authorised such removal and relaying or reimmersing.

(4) Where, contrary to paragraphs (2) and (3)—

(a) bivalve molluscs have been removed from a farm, farming area, harvested natural bed, purification centre or storage tank, and

(b) samples from such farm, farming area, harvested natural bed, purification centre or storage tank have been taken for the purposes of paragraph (1),

the person engaged in the rearing of such bivalve molluscs shall be guilty of an offence

(5) In these Regulations "sample" includes an appropriate amount of any material from the farm, farming area, harvested natural bed, purification centre or storage tank concerned which is necessary for determining, by laboratory analysis, the cause of abnormal mortality or presence of a disease referred to in Regulation 6.

9. (1) Where, following the examination referred to in Regulation 8, a pathogen is not found, Regulation 8(2) shall cease to apply to the farm, farming area, harvested natural bed, purification centre or storage tank concerned.

(2) Where, following the examination referred to in Regulation 8(1), a pathogen which—

(a) causes or is capable of causing the abnormal mortality, or

(b) is a pathogen of a disease referred to in Regulation 6,

is found in the sample taken from the farm, farming area, harvested natural bed, purification centre or storage tank concerned, the Minister shall—

(i) direct the national reference laboratory to carry out an epizootic investigation to determine the cause of the contamination concerned, and

(ii) investigate whether, bivalve molluscs have been removed from the farm, farming area or harvested natural bed concerned for relaying or reimmersion in another place during the period preceding the observation of the abnormal mortality.

10. Where, following the epizootic investigation referred to in Regulation 9, the Minister is of the opinion that the disease or pathogen has been introduced into one or more farms, farming areas, or harvested natural beds (as a result *inter alia* of being moved) Regulation 8 shall apply to the farms, farming areas or harvested natural beds concerned.

11. Notwithstanding the Regulations of 1996 the Minister may authorise the movement, of live bivalve molluscs to another farm, farming area or harvested natural bed which is infected with the same disease or pathogen.

12. The Minister may take further appropriate measures which the Minister is of the opinion are necessary for the purpose of these Regulations.

13. (1) For the purposes of these Regulations, the Fisheries Research Centre of the Marine Institute is hereby designated as the national reference

laboratory and, without prejudice to Decision 90/424/EEC<sup>1</sup> (as amended by Decision 94/370/EC<sup>2</sup>) and Article 28 thereof shall—

<sup>2</sup> O.J. No. L168, of 2.7.1994 p.31.

<sup>1</sup> O.J. No. L224, of 18.8.1990 p.19.

(a) co-ordinate, in consultation with the Commission, the methods used in Member States for diagnosing diseases of bivalve molluscs, and without prejudice to the generality of the foregoing shall—

(i) establish and maintain a collection of histological slides, strains or isolates of the relevant pathogens and make these available to approved laboratories in the Member States,

(ii) organise periodic comparative tests of diagnostic procedures at Community level,

(iii) collect and collate data and information on the methods of diagnosis used and the results of tests carried out in the Community,

(iv) characterise isolates of pathogens by the most recent and appropriate methods to allow greater understanding of the epizootiology of the disease,

(v) monitor developments in the surveillance, epizootiology and prevention of the relevant disease throughout the world, and

(vi) retain expertise on relevant disease pathogens to enable rapid differential diagnosis,

(b) assist in the diagnosis of disease outbreaks in Member States by receiving pathogen isolates for confirming diagnosis, characterisation and epizootic studies,

(c) facilitate the training or retraining of experts in laboratory diagnosis with a view to the harmonisation of diagnostic techniques throughout the Community,

(d) collaborate in relation to the methods of diagnosing exotic diseases, with the competent laboratories in third countries where those diseases are prevalent,

and

(e) co-operate with the Community reference laboratory.

(2) The Fisheries Research Centre of the Marine Institute shall take and examine samples, for the purpose of these Regulations, in accordance with the methods established in accordance with the procedure laid down in Article 10 of the Council Directive.

14. (1) A person who is guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,500.

(2) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) A prosecution under these Regulations may be brought by the Minister.

## *SCHEDULE*

### Regulation 6

#### Diseases

#### Pathogens

#### Sensitive Species

#### Haplosporidiosis

Haplosporidium nelsoni

Crassostrea virginica

Haplosporidium costale

Crassostrea virginica

#### Perkinsosis

Perkinsus marinus

Crassostrea virginica

Perkinsus olseni

Haliotis rubra

H. Laevigata

Mikrokytosis

Mikrokytos mackini

Crassostrea gigas

O. edulis

O. puelchana

O. denselomellosa

Tiostrea chilensis

Mikrokytos roughleyi

Saccostrea commercialis

Iridovirosis

Oyster Velar Virus

Crassostrea gigas

Marteiliosis

Marteilia sidneyi

Saccostrea commercialis



GIVEN under my Official Seal, this 18th day of January, 1999.

MICHAEL WOODS T.D.,

Minister for the Marine and Natural Resources.

EXPLANATORY NOTE.

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

This Regulation implements Council Directive 95/70/EC of 22 December 1995 introducing minimum community measures for the control of certain diseases affecting bivalve molluscs.