



STATUTORY INSTRUMENTS

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EUROPEAN COMMUNITIES (HEALTH OF AQUACULTURE
ANIMALS AND PRODUCTS) REGULATIONS 2008

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EUROPEAN COMMUNITIES (HEALTH OF AQUACULTURE
ANIMALS AND PRODUCTS) REGULATIONS 2008

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EUROPEAN COMMUNITIES (HEALTH OF AQUACULTURE
ANIMALS AND PRODUCTS) REGULATIONS 2008

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving effect to Council Directive No. 2006/88/EC of 24 October 2006¹ (as amended by Commission Directive No. 2008/53/EC of 30 April 2008²) and full effect to Commission Decision No. 2004/453/EC of 29 April 2004³ and Commission Decision No. 2006/272/EC of 5 April 2006⁴, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the European Communities (Health of aquaculture animals and products) Regulations 2008 and come into operation on 1 August 2008.

Interpretation

2. (1) In these Regulations—

“authorised officer” means—

- (a) an authorised person (within the meaning of section 292 of the Fisheries (Consolidation) Act 1959 (No. 14 of 1959)),
- (b) an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),
- (c) a sea-fisheries protection officer (within the meaning of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006)),
- (d) an authorised officer within the meaning of the European Communities (Veterinary checks on fish and fishery products imported from third countries) Regulations 2003 (S.I. No. 548 of 2003), or
- (e) a person appointed under Regulation 25;

“Commission Decision” means Commission Decision No. 2004/453/EC of 29 April 2004 and Commission Decision No. 2006/272/EC of 5 April 2006;

“Council Directive” means Council Directive No. 2006/88/EC of 24 October 2006 as amended by Commission Directive No. 2008/53/EC of 30 April 2008;

¹O.J. No. L 328 of 24.11.2006, p. 14.

²O.J. No. L 117 of 1.5.2008, p. 27.

³O.J. No. L 156 of 30.4.2004, p. 5

⁴O.J. No. L 99 of 7.4.2006, p. 31.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th July, 2008.*

“dispatch centre” means an establishment used for receiving, washing, cleaning, grading and packaging of live bivalve molluscs;

“premises” means land with or without buildings and includes land covered by water;

“purification centre” means an establishment equipped with tanks fed by clean sea-water in which live bivalve molluscs are kept for the time necessary to reduce contamination to render them fit for human consumption;

“sanitary slaughter” means slaughter for human consumption of an aquaculture animal from a premises affected with a disease listed in Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State;

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward or otherwise (whether directly or through another person);

“supply” means to give without reward.

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

Scope

3. These Regulations do not apply to—

- (a) ornamental aquatic animals—
 - (i) reared in non-commercial aquaria, or
 - (ii) kept in pet shops, garden centres, ponds, commercial aquaria or wholesale premises without direct contact with natural water or equipped with an effluent treatment system that reduces the risk of transmitting disease to natural waters to an acceptable level,
- (b) wild aquatic animals harvested or caught for direct entry into the food chain, or
- (c) aquatic animals caught for the production of fishmeal, fish feed, fish oil or similar products.

Notice of movement

4. (1) A person shall not move an aquaculture animal (including a wild fish being moved onto a premises to which Regulation 23 refers) from a premises, whether within the State or otherwise, to a premises in the State unless he or she has given at least 72 hours notice of the movement to the Marine Institute.

(2) The Marine Institute may specify the form of notice to be given under paragraph (1) and, if the Marine Institute does so, a person shall give notice in accordance with that form.

Sale of aquaculture animal, etc.

5. (1) A person shall not sell or supply an aquaculture animal or product unless he or she has taken all necessary measures to ensure that the sale or supply does not occasion a risk to the health status of the aquaculture animal or product or other aquaculture animals or products.

(2) A person shall not sell or supply an aquaculture animal for farming unless—

(a) it is clinically healthy, and

(b) (i) it comes from a premises where there is no unresolved increased mortality, or

(ii) (after a risk assessment is carried out by or at the direction of an authorised officer), the aquaculture animal comes from an epidemiological unit independent of that where the mortality referred to in subparagraph (i) has occurred and is sold or supplied with the written consent of an authorised officer.

(3) A person shall not release an aquaculture animal for re-stocking purposes or into a put and take fishery unless it—

(a) complies with paragraph (1) and (2), and

(b) comes from a premises declared disease free in accordance with Article 49 or 50 of the Council Directive or the Commission Decision so far as the Commission Decision relates to the State.

Sale or supply of ornamental aquatic animal

6. (1) A person shall not import, export, sell or supply an ornamental aquatic animal unless he or she takes all necessary measures to ensure that the import sale or supply of that animal does not present a risk to the health of the animal or another aquatic animal.

(2) A person shall not import, export, sell or supply an ornamental aquatic animal, or cause or permit another person to import, export, sell or supply an ornamental aquatic animal unless the animal is accompanied by a health certificate issued for the purposes of the—

(a) Council Directive stating that the animal is free of a disease listed in Part II Annex IV to the Council Directive, or

(b) Commission Decision so far as the Commission Decision relates to the State.

(3) Paragraph (2) does not apply to an ornamental aquatic animal of Community origin consigned to a system to which Article 2(2) of the Directive applies.

Imports

7. (1) A person shall not bring an aquaculture animal or aquaculture product susceptible to a disease or a vector into—

- (a) the State or part of the State (including the territorial sea adjacent to that part) to which Regulation 8 applies or is otherwise declared free of the disease in accordance with Article 49 or 50 of the Council Directive or the Commission Decision so far as the Commission Decision relates to the State, or
- (b) the State or part of the State (including the territorial sea adjacent to that part) subject to a surveillance programme or eradication programme for the disease and for the purpose of having the area subject to the surveillance programme or eradication programme declared free of disease in accordance with Article 49 or 50 of the Council Directive,

unless the place of origin of the aquaculture animal, aquaculture product or vector—

- (i) is, if the aquaculture animal is susceptible to a disease or is a vector (subject to Regulation 16 in the case of a vector) a zone, compartment or member state declared free of disease in accordance with Article 49 or 50 of the Council Directive, or
- (ii) in the case of a third country, appears on a list referred to in Article 23, and is accompanied by a document relating to the aquaculture animal or product that conforms to Article 24, of the Council Directive.

(2) A person shall not have in his or her possession or under his or her control an aquaculture animal, for further processing unless the aquaculture animal—

- (a) comes from a zone or compartment declared free of a disease listed in Part II of Annex IV to the Council Directive in accordance with Article 49 or 50 of the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State, or
- (b) is temporarily kept at a dispatch centre, purification centre or similar premises that is equipped with an effluent treatment system that inactivates the pathogens that cause a disease listed in Part II of Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State.

(3) Paragraph (1) does not apply to—

- (a) fish that are eviscerated before being brought into the State,
- (b) crustaceans or molluscs in the form of a ready to eat processed or unprocessed product, or

- (c) fish, crustaceans or molluscs processed in a processing plant authorised in accordance with Regulation 17.

(4) This Regulation does not apply to an aquaculture animal or product of a species susceptible to a disease listed in Part II of Annex IV (other than live crustaceans or molluscs relayed in water) sold or supplied for human consumption without further processing if the aquaculture animal or product is presented in a retail sale package that conforms to Regulation (EC) No. 853/2004.

Disease free areas

8. (1) A part of the State (including the territorial sea adjacent to that part) mentioned in a Decision made under Article 62(2) of the Council Directive is, to the extent stated in that Decision, declared to be free of the disease.

(2) The Marine Institute may, for the purposes of Article 50 of the Council Directive, declare a zone or compartment to be free of a disease listed in Annex IV to the Council Directive.

Notification of disease

9. (1) A person who, by reason of an examination, laboratory test result or otherwise, is aware or suspects or who should reasonably be aware or suspect that an aquaculture animal or product on a premises is or may be affected with a disease specified in Part II of Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State shall immediately notify—

- (a) the Marine Institute of the fact or suspicion, and
- (b) the registered veterinary practitioner (if any) specified in the fish health management plan relating to the premises of the fact or suspicion.

(2) A person who is aware or suspects or who should reasonably be aware or suspect that there is an increased level of fish mortality on a premises, shall immediately notify—

- (a) the Marine Institute of the fact or suspicion, and
- (b) the registered veterinary practitioner (if any) specified in the fish health management plan relating to the premises of the fact or suspicion.

(3) The owner or person in charge of a premises that is the subject of a notification under this Regulation shall place the premises under the supervision of a registered veterinary practitioner if such supervision is in accordance with the fish health management plan relating to the premises.

(4) A person shall not move or cause or permit another person to move an aquaculture animal or product onto, or from a premises subject to notification under paragraph (1) or (2) except under and in accordance with a movement permit.

Suspicion of disease

10. (1) If an authorised officer has reasonable cause to suspect that a disease listed in Part II of Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State may be present on a premises, he or she shall, by notice in writing (“restriction notice”), prohibit the movement of aquaculture animals onto or from the premises except under and in accordance with a permit (“movement permit”).

(2) A restriction notice or a movement permit shall be subject to such conditions as an authorised officer considers necessary.

(3) An authorised officer may, by further notice in writing, vary or withdraw a restriction notice or a movement permit.

(4) A person shall comply with a restriction notice or a movement permit.

Confirmation of disease/ Infected premises

11. (1) If, as a result of laboratory analysis or otherwise, an authorised officer becomes aware that a disease listed in Part II of Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State is present on a premises, he or she shall declare the premises to be an infected premises.

(2) A person shall not—

(a) move an aquaculture animal onto or from an infected premises except under and in accordance with a movement permit, or

(b) harvest an aquaculture animal at an infected premises except under and in accordance with a licence (“harvesting licence”).

(3) A declaration under paragraph (1) shall be subject to such conditions as an authorised officer considers necessary, ancillary or supplementary for the purpose of controlling and eradicating the disease.

(4) An authorised officer may, by further notice in writing, vary or withdraw a declaration under paragraph (1).

(5) An authorised officer may grant a harvesting licence, attach conditions to a harvesting licence, vary a condition, revoke a harvesting licence or refuse an application.

(6) A person shall comply with a declaration under paragraph (1) or a harvesting licence.

Containment zone

12. (1) The Marine Institute shall declare an area around an infected premises to be a containment zone.

(2) The Marine Institute shall determine, having regard to the disease in question, the extent of a containment zone, which may be varied by further declaration.

(3) A declaration under paragraph (1) shall be subject to such conditions as the Marine Institute considers necessary, ancillary or supplementary for the purpose of controlling and eradicating the disease.

(4) A person shall comply with a declaration under this Regulation.

Sanitary slaughter permit

13. (1) Subject to paragraph (2), if the Marine Institute declares an area to be an infected zone, a person shall not harvest, process, sell or supply for human consumption an aquaculture animal from an infected zone.

(2) The Marine Institute may issue a permit (“sanitary slaughter permit”) allowing the harvesting, processing, sale or supply for human consumption of an aquaculture animal that has reached commercial size if it shows no clinical sign of disease.

(3) A sanitary slaughter permit shall be subject to such conditions that the Marine Institute may determine.

(4) A person shall comply with a sanitary slaughter permit.

Destruction of aquaculture animal, etc.

14. (1) The Marine Institute may kill, slaughter or destroy or cause to be killed, slaughtered or destroyed an aquaculture animal or other fish if, in the opinion of the Marine Institute—

(a) it is at risk of, may be or is suspected of being affected with a disease,

(b) it is affected with a disease,

(c) it is a vector for a disease,

(d) it is necessary, ancillary or supplementary to—

(i) preventing the risk or spread of a disease, or

(ii) diagnosing or controlling (including eradicating) a disease,

or

(e) it is required under the Council Directive or the Commission Decision to be accompanied by a health certificate or other document and it is not accompanied by the certificate or other document.

(2) If the Marine Institute kills, slaughters or destroys or causes to be killed, slaughtered or destroyed an aquaculture animal or product in accordance with paragraph (1), the Institute shall dispose or cause to be disposed of the aquaculture animal or product in such a manner as it considers appropriate.

(3) The cost (including ancillary costs) of killing, slaughtering or destroying or disposing of an aquaculture animal or product referred to in paragraph (1) falls on the owner of the animal or product and may be recovered by the Marine Institute as a simple contract debt in a court of competent jurisdiction.

Fallowing

15. Without prejudice to the generality of Regulations 14 or 17, an authorised officer may require that a premises situate in an infected zone be emptied, cleaned and disinfected and that the premises remain fallow for such period as the authorised officer may determine.

Quarantine

16. (1) A person shall not in—

- (a) the State or part of the State (including the territorial sea adjacent to that part) to which Regulation 7 applies or is otherwise declared free of the disease in accordance with Article 49 or 50 of the Council Directive or the Commission Decision so far as the Commission Decision relates to the State, or
- (b) the State or part of the State (including the territorial sea adjacent to that part) subject to a surveillance programme or eradication programme for the disease and for the purpose of having the area subject to the surveillance programme or eradication programme declared free of disease in accordance with Article 49 or 50 of the Council Directive,

have in his or her possession or under his or her control a vector species or a wild aquatic animal of susceptible species that originates in a place, zone or compartment that is not free of the disease which the vector or wild aquatic animal may carry unless it has been held in a facility authorised in that behalf by the competent authority of a member state or third country for a period and under any conditions that the Marine Institute may determine.

(2) The Marine Institute may grant a licence to a quarantine facility (“quarantine licence”), attach conditions to a quarantine licence, vary a condition, revoke a quarantine licence or refuse an application.

(3) An application for a quarantine licence for a quarantine facility shall be in a form and contain such information as the Marine Institute may require.

(4) Without prejudice to the generality of paragraph (3), the Marine Institute may revoke a quarantine licence or refuse an application if, in the opinion of the Institute—

- (a) the activity to which the quarantine licence or application relates presents an unacceptable risk of the introduction or spread of disease,
- (b) the quarantine licence holder or applicant fails to implement good hygiene practice,

- (c) there is a failure to maintain accurate records,
 - (d) there is a failure to maintain or apply a risk based animal health surveillance scheme,
 - (e) the quarantine licence holder or applicant is not a fit and proper person to hold a quarantine licence,
 - (f) an act of the institutions of the European Communities or these Regulations have not, are not or will not be, complied with,
 - (g) the applicant or quarantine licence holder has committed an offence, whether he or she has been convicted or not, relating to animal health or aquaculture,
 - (h) the applicant or quarantine licence holder has failed to comply with a condition of a quarantine licence,
 - (i) in relation to an application, information required has not been furnished or information that is false or misleading in a material respect has been furnished,
 - (j) the premises to which the application or quarantine licence relates is not, or has ceased to be, a fit and proper premises to be approved,
 - (k) the holder of a quarantine licence has ceased to carry out the activity to which approval relates at the premises to which approval relates, or
 - (l) it is necessary, supplementary or ancillary to an act of the institutions of the European Communities to have full effect.
- (5) The holder of a quarantine licence shall make such returns to the Marine Institute as the Marine Institute may require.
- (6) Other than in the case of paragraph (7), if the Marine Institute proposes to refuse an application or suspend or revoke a quarantine licence, it shall—
- (a) notify the applicant or holder of the quarantine licence of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the Marine Institute within 14 days of notification,
 - (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
 - (c) notify the applicant or holder of the quarantine licence of the decision and the reasons for the decision.
- (7) If the Marine Institute is of the opinion that—

- (a) it is necessary for the protection of human health, animal health or welfare, or the environment, including the prevention, control or eradication of a disease, or
- (b) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect,

it may refuse an application, suspend or revoke a quarantine licence, in accordance with paragraph (8).

(8) If the Marine Institute refuses an application or suspends or revokes a quarantine licence in accordance with this paragraph, it shall—

- (a) notify the applicant or holder of the quarantine licence of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the Marine Institute within 14 days of notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the applicant or holder of the quarantine licence of the decision and the reasons for the decision.

(9) If the Marine Institute revokes a fish health authorisation or refuses an application, a quarantine licence relating to the premises to which the application or fish health authorisation formerly related has no effect.

Fish health authorisation

17. (1) A person shall not operate—

- (a) an aquaculture production business, including—
 - (i) a fish, mollusc or crustacean farm,
 - (ii) an aquaculture processing business which carries out sanitary slaughter,
 - (iii) a purification or dispatch centre, or
 - (iv) a premises where an aquaculture animal is kept without being sold or supplied,
- (b) a put and take fishery,
- (c) a commercial aquarium,
- (d) a quarantine facility, or
- (e) a premises where ornamental fish are kept, in contact with natural water where the effluent is not disinfected,

except under and in accordance with an authorisation (“fish health authorisation”).

(2) An application for a fish health authorisation shall be in a form and contain the information that the Marine Institute may determine.

(3) The Marine Institute shall not consider an application unless the application contains all the material and particulars sought by the Marine Institute.

(4) The Marine Institute may grant a fish health authorisation to a person in respect of a premises, attach conditions to a fish health authorisation, vary or delete a condition, revoke a fish health authorisation or refuse an application.

(5) Without prejudice to the generality of paragraph (4), the Marine Institute may revoke a fish health authorisation or refuse an application if, in the opinion of the institute—

- (a) the activity to which the fish health authorisation or application relates presents an unacceptable risk of the introduction or spread of disease,
- (b) the authorisation holder or applicant fails to implement good hygiene practice,
- (c) there is a failure to maintain accurate records,
- (d) there is a failure to maintain or apply a risk based animal health surveillance scheme,
- (e) the authorisation holder or applicant is not a fit and proper person to hold a fish health authorisation,
- (f) an act of the institutions of the European Communities or these Regulations have not, are not or will not be, complied with,
- (g) the applicant or holder of a fish health authorisation has committed an offence, whether he or she has been convicted or not, relating to animal health or aquaculture,
- (h) the applicant or holder of a fish health authorisation has failed to comply with a condition of a fish health authorisation,
- (i) in relation to an application, information required has not been furnished or information that is false or misleading in a material respect has been furnished,
- (j) the premises to which the application or fish health authorisation relates is not, or has ceased to be, a fit and proper premises to be approved,
- (k) the holder of a fish health authorisation has ceased to carry out the activity to which approval relates at the premises to which authorisation relates, or

(l) it is necessary, supplementary or ancillary to an act of the institutions of the European Communities to have full effect.

(6) The holder of a fish health authorisation shall make such returns to the Marine Institute as the Marine Institute may require.

(7) Other than in the case of paragraph (8), if the Marine Institute proposes to refuse an application or suspend or revoke a fish health authorisation, it shall—

(a) notify the applicant or holder of the fish health authorisation of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the Marine Institute within 14 days of notification,

(b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and

(c) notify the applicant or holder of the fish health authorisation of the decision and the reasons for the decision.

(8) If the Marine Institute is of the opinion that—

(a) it is necessary for the protection of human health, animal health or welfare, or the environment, including the prevention, control or eradication of a disease, or

(b) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect,

the Institute may refuse an application, suspend or revoke a fish health authorisation, in accordance with paragraph (9).

(9) If the Marine Institute refuses an application or suspends or revokes a fish health authorisation in accordance with this paragraph, the Institute shall—

(a) notify the applicant or holder of the fish health authorisation of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the Marine Institute within 14 days of notification,

(b) consider a representation made, and

(c) confirm, modify or annul the decision and notify the applicant or holder of the fish health authorisation of the decision and the reasons for the decision.

(10) If the Marine Institute revokes a fish health authorisation or refuses an application, an aquaculture licence (within the meaning of the Fisheries (Amendment) Act 1997) relating to the premises to which the application or fish health authorisation formerly related has no effect.

(11) If the Minister revokes an aquaculture licence (within the meaning of the Fisheries (Amendment) Act 1997) or refuses an application, a fish health authorisation relating to the premises to which the application or aquaculture licence formerly related has no effect.

(12) If the Foyle Fisheries Commission revokes an aquaculture licence (within the meaning of Part VIA (inserted by the Foyle and Carlingford Fisheries Act 2007 (no. 17 of 2007)) of the Foyle Fisheries Act 1952 (No. 5 of 1952) or refuses an application, a fish health authorisation relating to the premises to which the application or aquaculture licence formerly related has no effect.

(13) A person who, immediately before the making of these Regulations is lawfully engaged in an activity to which paragraph (1) relates and who makes application for a fish health authorisation in respect of the premises where he or she engages in that activity before 1 September 2008, may continue to engage in that activity in accordance with these Regulations until the application is determined.

Register of fish health authorisations

18. (1) The Marine Institute shall maintain and publish, in a manner that it considers appropriate, a register of holders of fish health authorisations (“register of fish health authorisations”) containing as a minimum the information set out in Annex II to the Council Directive.

(2) The register of fish health authorisations may be maintained in a non-legible form if it can be translated into a legible form.

(3) If the Marine Institute revokes a fish health authorisation, the entry in the register relating to that authorisation is null and of no effect and the Marine Institute shall expunge the entry.

Aquaculture animal transport register

19. (1) A person shall not use a vessel or vehicle to transport an aquaculture animal unless his or her name and details of the means of transport are entered in a register (“aquaculture animal transport register”) maintained by the Marine Institute or the competent authority of another member state.

(2) The Marine Institute may enter a person’s name and particulars on the aquaculture animal transport register, refuse an application or revoke a registration.

(3) An application for registration shall be made in a form and be accompanied by any information that the Marine Institute may specify.

(4) The Marine Institute shall not consider an application for registration if the application does not contain all information sought by the Marine Institute.

(5) The Marine Institute may attach conditions to registration, revoke or vary a condition or attach a new condition.

- (6) Without prejudice to the generality of paragraph (5), a condition to registration may—
- (a) control the use of a vessel or vehicle owned or operated by a person to whom registration relates and other conditions as are, in the opinion of the Marine Institute, necessary, ancillary or desirable for that condition to have full effect, and
 - (b) specify the type or class of aquaculture animal that may be carried on the vessel or vehicle.
- (7) Without prejudice to the generality of paragraph (2), the Marine Institute may refuse an application or revoke a registration if—
- (a) the Institute is satisfied that these Regulations have not been or will not be complied with,
 - (b) the applicant or registered person has been convicted of or committed an offence, whether he or she has been convicted or not, under any enactment relating to an aquaculture animal, animal health or public health,
 - (c) the applicant or registered person has failed to comply with a condition of registration,
 - (d) the applicant or registered person is not, in the opinion of the Marine Institute, a fit and proper person to be registered,
 - (e) without prejudice to paragraph (4), in relation to the application, information required has not been furnished or information that is, in the opinion of the Marine Institute, false or misleading in a material particular has been furnished, or
 - (f) it is necessary, in the opinion of the Marine Institute—
 - (i) to prevent the risk or spread of disease, or
 - (ii) incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities.
- (8) Without prejudice to the generality of paragraph (2), the Marine Institute shall refuse an application or revoke registration if the applicant or registered person has been convicted, on indictment, of an offence relating to an aquaculture animal, animal health or public health.
- (9) Other than in the case of refusal or revocation under paragraph (8) or (10), if the Marine Institute proposes to revoke a registration, or to refuse an application, the Institute shall—

- (a) notify the applicant or registered person in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Marine Institute in relation to the proposal within 14 days of the notification,
- (b) consider a representation made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant or registered person of the decision and the reasons therefor.

(10) If the Marine Institute is of the opinion that it is necessary to prevent the risk of disease or to give effect to an act of an institution of the European Communities, the Institute may refuse an application or revoke a registration in accordance with paragraph (11).

(11) If the Marine Institute refuses an application or revokes a registration in accordance with this paragraph, the Institute shall—

- (a) notify the applicant or registered person in writing of the decision and the reasons for the decision, and that he or she may make representations to the Marine Institute in relation to the decision within 14 days of the date of the notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the applicant or registered person of the decision and the reasons therefor.

(12) A person to whom a registration is granted shall make such returns to the Marine Institute as and when, and in a form that, the Marine Institute may direct.

(13) The Marine Institute may establish and maintain the register in a form that is non legible if it is capable of being translated into a legible form.

Transport of aquaculture animals

20. A person shall not transport an aquaculture animal unless he or she takes all necessary measures—

- (a) to ensure that the health status of the aquaculture animal or a wild aquatic animal is not altered during transport,
- (b) to ensure that the health status of an aquaculture animal or wild aquatic animal at the premises of destination is not altered, and
- (c) to minimise the risk of the spread of disease.

Water exchange

21. A person shall not carry out water exchange or cause or permit another person to carry out water exchange during the transport of an aquaculture animal unless he or she takes all necessary measures to protect the health status of—

- (a) an aquaculture animal being transported,
- (b) an aquatic animal at a place where water is exchanged, and
- (c) an aquatic animal at the place of destination.

Records

22. (1) A person shall not operate a business referred to in Regulation 17(1) unless he or she maintains a record of—

- (a) all movements of aquaculture animals and products onto or from the premises,
- (b) mortality of aquaculture animals on the premises or on each separate part of the premises, and
- (c) the results of measures taken (if any) relating to the animal health surveillance scheme.

(2) A person shall not operate an authorised processing establishment unless he or she maintains a record of all movements of aquaculture animals and products onto or from the premises.

(3) A person shall not transport an aquaculture animal unless he or she maintains a record of—

- (a) mortality during transport, as practicable for the type of transport and species being transported, and
- (b) each premises used in connection with aquaculture visited by the means of transport, and
- (c) water exchange during each journey including the source of water and details of the release of water.

(4) A record maintained under this Regulation shall be kept for a period of at least 5 years and made available for inspection on request by an authorised officer.

(5) The Marine Institute may determine that a record maintained under this Regulation is kept in a particular form and, if he or she does so, a person shall maintain that record in the form determined by the Marine Institute.

Fish health management plan

23. (1) The holder of a fish health authorisation or a person to whom Regulation 17(12) applies operating an aquaculture business to which that provision

refers, shall at the time of application for a fish health authorisation prepare and submit to the Marine Institute a fish health management plan detailing,—

- (a) a suitable risk based fish health surveillance scheme,
- (b) the maintenance of appropriate records,
- (c) the implementation of good hygiene practice,
- (d) action to be taken if there are increased mortalities, and
- (e) action to be taken if there is a suspicion of or outbreak of a disease listed in Part II of Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State,

at the premises to which the fish health management plan relates and the fish health management plan shall, if approved by the Marine Institute, be carried out by the owner or person in charge of the premises in accordance with its terms.

(2) Without prejudice to the generality of paragraph (1), the Marine Institute may direct that a fish health management plan prepared and submitted under this Regulation shall contain such provisions and comply with such requirements as are specified in the direction, including provisions and requirements relating to—

- (a) the form of the health surveillance scheme,
- (b) biosecurity measures,
- (c) the taking of samples at the premises,
- (d) the manner in which the analysis of samples is to be carried out,
- (e) the frequency with which testing for disease is to be conducted,
- (f) the maintenance of records,
- (g) the nomination of a registered veterinary practitioner to have clinical responsibility for the premises,
- (h) the number and stage of development of fish, crustaceans or molluscs to be tested, and
- (i) measures to be taken by the owner or person in charge of the premises where the presence of a disease is suspected.

(3) A fish health management plan prepared and submitted under this Regulation shall comply with a direction given under paragraph (2).

(4) The Marine Institute may approve a fish health management plan prepared and submitted under this Regulation.

(5) The Marine Institute may require, by notice in writing, that a fish health management plan be modified in such manner as the Institute directs.

(6) If the Marine Institute requires that a fish health management plan submitted under paragraph (1) be modified, the owner or person in charge of the premises to which the fish health management plan relates shall modify the fish health management plan in accordance with directions of the Marine Institute and shall within a period of 30 days of receipt by him or her of a notice under paragraph (5) submit the fish health management plan as so modified to the Marine Institute for approval by the Institute.

Vaccination

24. (1) A person shall not vaccinate against a disease listed in Part II of Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State except under and in accordance with a notice (“vaccination notice”).

(2) A vaccination notice may apply to premises generally or to premises of a particular class or description.

(3) A vaccination notice shall be subject to such conditions as the Marine Institute considers appropriate.

(4) A vaccination notice may be varied or withdrawn by further notice.

(5) A person shall comply with a vaccination notice.

(6) This Regulation is in addition to and not in substitution for the European Communities (Animal Remedies) (No. 2) Regulations 2007 (S.I. No. 786 of 2007).

Appointment of authorised officer

25. (1) The Chief Executive of the Marine Institute may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(2) The Chief Executive of the Marine Institute may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph (2),

(b) if it is for a fixed period, on expiry of that period, or

(c) if the person is an officer of the Marine Institute, upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Chief Executive of the Marine Institute from reappointing as an authorised officer a person to whom that paragraph relates.

Functions of authorised officer

26. (1) If an authorised officer has reasonable cause to suspect that—

- (a) an aquaculture animal or product or a vessel, vehicle, container or trailer used in connection with the transport of an aquaculture animal or product is present, has been present or may be present on a premises,
- (b) an aquaculture animal or product is or has been kept, processed, stored or otherwise dealt with on a premises,
- (c) equipment, plant or machinery used in connection with an aquaculture animal or product has been, is or may be on a premises,
- (d) a disease or a vector is or may be present on a premises, or
- (e) a document relating to a thing referred to in paragraph (a), (b), (c) or (d) is present, was present or may be present on a premises,

the authorised officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel or container,
- (iv) examine an aquaculture animal or product, vehicle, vessel, container, equipment, machinery or other thing,
- (v) take, without payment, samples of an aquaculture animal or product or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vi) require the production of a document (including a document in non-legible form in a legible form) or thing relating to an aquaculture animal or product, vehicle, vessel, container, equipment, machinery or other thing,
- (vii) retain a document or thing (for so long as is necessary),
- (viii) make a record using any means including writing, photography or video,

- (ix) give a direction to, or request information of, a person regarding an aquaculture animal or product, vector, vessel, vehicle, container, machinery, equipment, premises or other thing as he or she considers necessary,
- (x) require the name and address of a person and the name and address of any other person including the owner of, or person to whom an aquaculture animal or product or other thing is being delivered or who is causing it to be delivered,
- (xi) require of a person the ownership, identity and origin of an aquaculture animal or product, premises, vessel, vehicle, container, equipment, machinery or other thing,
- (xii) require a person in charge or control of a vessel, vehicle or container to refrain from moving it,
- (xiii) carry out epizootic, or other, investigations or studies, or
- (xiv) mark or otherwise identify an aquaculture animal or product, premises, vessel, vehicle, machinery, equipment or other thing or a sample taken under subparagraph (v).

(2) If an authorised officer has reasonable cause to suspect that—

- (a) an offence is being or has been committed under these Regulations, or
- (b) evidence of an offence or contravention to which paragraph (a) relates may be, is or has been on a premises—

the authorised officer may, in addition to the powers exercisable by him or her under paragraph (1)—

- (i) search a person, where the authorised officer considers it necessary,
- (ii) seize and detain an aquaculture animal or product, vessel, vehicle, container, equipment, machinery or other thing, or
- (iii) dispose of, or require the owner or person in charge of, or in possession of an aquaculture animal or product or other thing to deal with or dispose of it, (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, the aquaculture animal or product) in a manner that the authorised officer sees fit.

(3) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 28, other than if he or she has reasonable cause to suspect that before a search warrant could be sought in relation to the dwelling anything

to which paragraph (1) or (2) relates is being or is likely to be destroyed or disposed of.

(4) An authorised officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

(5) An authorised officer, when exercising a power under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the power.

(6) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under this Regulation if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(7) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions—

- (a) prohibiting, restricting or otherwise controlling the use, processing or movement of an aquaculture animal or product, vessel, vehicle, container, equipment, machinery or other thing as may be specified by the authorised officer, or
- (b) requiring that the person to whom the direction is addressed to take the bio-security measures specified by the authorised officer.

(8) If a member of an Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

(9) If in the course of exercising any powers under these Regulations an authorised officer or a member of an Garda Síochána finds or comes into possession of any thing that the officer or member believes to be evidence of an offence or suspected offence under these Regulations, it may be seized and retained for use in evidence in criminal proceedings.

(10) Nothing in these Regulations operates to prejudice a power conferred by another enactment to search, or to seize or detain property, which may be exercised by a member of an Garda Síochána or an officer of Customs and Excise.

(11) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a power conferred on him or her by these Regulations.

Assistance to an authorised officer

27. (1) A person who has an aquaculture animal or product, vehicle, farm machinery, equipment or document relating to any thing to which this Regulation refers in his or her possession or under his or her control, the servant,

agent or employee of the person shall give any assistance requested to an authorised officer or person who accompanies an authorised officer.

(2) A person shall give any assistance requested to an authorised officer or person who accompanies an authorised officer for the purpose of undertaking an epidemiological, epizootiological, monitoring or surveillance programme.

Search warrant

28. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was an aquaculture animal or product or equipment or other thing made used or adapted for use (including manufacture and transport) in connection with an aquaculture animal or product on a premises,
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is, or may be, on a premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises named in the warrant.

(3) If a premises is entered under a search warrant, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Compliance notice

29. (1) If an authorised officer is of the opinion that—

- (a) these Regulations are not being or have not been complied with, or there are reasons to believe that they will not be complied with, or
- (b) a condition of a fish health authorisation, quarantine licence or registration under Regulation 20 is not being or has not been complied with or there are reasons to believe that they will not be complied with,

he or she may serve or cause to be served on a person or on his or her employee, servant or agent, a notice (“compliance notice”) stating that opinion and—

- (i) directing that an aquaculture animal or product be disposed of or destroyed in a manner specified in the notice,

- (ii) prohibiting or regulating any operation or processing on the premises to which the notice relates,
- (iii) prohibiting the transport or the further transport of an aquaculture animal or product either absolutely or unless such conditions as may be specified in the notice are complied with,
- (iv) requiring a person to return an aquaculture animal or product to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
- (v) requiring that such alterations be made to a premises or means of transport or to the equipment and facilities found there as may be specified in the notice,
- (vi) requiring a person to secure in a manner specified by the authorised officer (if any) an aquaculture animal or product, or
- (vii) take such other measures as are necessary to ensure compliance with these Regulations.

(2) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the notice is annulled under Regulation 31.

(3) A compliance notice may specify one or more requirements.

(4) A requirement contained in a compliance notice may specify a time limit within which it is to be complied with.

(5) A compliance notice may require a person to choose between two or more of the requirements specified in the compliance notice.

(6) A requirement specified in a compliance notice (in this Regulation referred to as “the earlier compliance notice”) may be modified or withdrawn in a further compliance notice and in that event the earlier compliance notice shall have effect subject to such modification or withdrawal.

(7) In the event of an appeal made pursuant to Regulation 31, a person, including the person appealing, shall not deal with an aquaculture animal, product, premises, equipment or other thing to which the compliance notice relates, pending the determination of the appeal other than in accordance with such directions as shall be given in writing to the appellant by an authorised officer.

(8) If the terms of a compliance notice are confirmed with or without modification by a judge of the District Court hearing an appeal under Regulation 31, a person, including the person who made the appeal shall not deal with a premises to which the compliance notice relates other than in accordance with the compliance notice as confirmed.

(9) Any costs pertaining to action required to comply with a compliance notice will be borne by the owner of the premises to which the compliance notice relates.

Service

30. (1) A restriction notice, notice under Regulation 23(5), compliance notice or a direction or requirement of an authorised officer (if in written form) shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on a person—

- (a) by giving it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (d) by electronic communication,
- (e) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the animal health and welfare notice relates to a premises, by delivering a copy to the premises or by affixing a copy in a conspicuous position on or near the premises, or
- (f) if the Marine Institute or an authorised officer considers that the immediate giving of the notice, direction or requirement of an authorised officer (if in written form) is required, by sending a copy, by means of a facsimile machine, to a device or facility for the reception of facsimiles located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the notice.

(2) If a restriction notice, notice under Regulation 23(5) or compliance notice is to be served on a person who is the owner or keeper of an aquaculture animal or a transporter and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to that person by using the words “the occupant”.

(3) A person shall not, at any time within 6 months after a restriction notice, notice under Regulation 23(5) or compliance notice is affixed under paragraph (1)(e), remove, damage or deface the notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Appeal against compliance notice

31. (1) A person may appeal within 7 days of the service of a compliance notice to the judge of the District Court having jurisdiction in the District Court District where the animal to which the compliance notice relates is situated, or to the judge of the District Court where the person bringing the appeal ordinarily resides or carries on business, on the grounds that the notice or any terms thereof are not justified having regard to these Regulations and the objectives of the Council Directive (hereafter referred to as “an appeal”).

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court District.

(3) Notice of an appeal shall be served on the Marine Institute at least 2 days prior to the hearing of the appeal by serving it on the Marine Institute or by leaving it at the place and in the manner (if any) specified in the compliance notice.

(4) A notice of appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms thereof are not justified.

(5) A copy of the notice of appeal shall be lodged with the District Court Clerk in the manner specified in the compliance notice (if any) at least 2 days prior to the hearing of the appeal.

(6) On the hearing of an appeal under this Regulation a judge of the District Court may confirm, modify or annul a compliance notice.

(7) A person, including a person on whom a compliance notice has been served, shall not after the appeal, deal with an aquaculture animal, aquaculture product, premises or other thing other than in accordance with the compliance notice or compliance notice as modified.

Emergency measures

32. (1) Without prejudice to Regulation 30, if—

- (a) the person in control of an aquatic animal or a means of transport fails to comply with the terms of a compliance notice within the time specified therein,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice will not be complied with,
- (c) a compliance notice has been confirmed with or without modification under Regulation 31 and the notice has not been complied with,
- (d) an authorised officer has reasonable grounds for believing that the terms of a compliance notice which has been confirmed, with or without modification under Regulation 35, will not be complied with, or
- (e) pending the determination of an appeal, an authorised officer has reasonable grounds for believing that directions given pursuant to

Regulation 26(1) or 29(7) have not been or shall not be complied with,

an authorised officer may at any time seize the aquatic animal or means of transport.

(2) If an aquatic animal or means of transport is seized in accordance with subparagraph (a), an authorised officer may—

- (a) sell, destroy or dispose of the aquatic animal or means of transport or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the aquatic animal or means of transport as the authorised officer considers appropriate in the circumstances of the case.

(3) Any profits arising out of the sale, destruction or disposal of an aquaculture animal in accordance with paragraph (2) shall be paid to the owner of the aquaculture animal less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under Regulation 29 or this Regulation are recoverable by the Marine Institute—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the aquaculture animal at the time the measure was carried out, or
- (b) by deducting the costs from any sum due or becoming due by the Marine Institute or the Minister to a person on whom a compliance notice has been served.

Obstruction, etc.

33. A person shall not—

- (a) obstruct or impede an authorised officer (or a person who accompanies an authorised officer) in the exercise of his or her powers under Regulation 26,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 26,
- (c) fail, without reasonable cause, to give assistance to an authorised officer in accordance with Regulation 27, or
- (d) in making an application under these Regulations or in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 26—

- (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
- (ii) fail to disclose a material particular.

Forgery

34. (1) A person shall not forge or utter knowing it to be forged—

- (a) a health certificate,
- (b) a restriction notice, notice under Regulation 23(5), compliance notice or vaccination notice,
- (c) a movement permit or sanitary slaughter permit,
- (d) a fish health authorisation, registration under Regulation 19, a harvesting licence or a quarantine licence,
- (e) a declaration under Regulation 11 or 12, or
- (f) a direction or requirement under Regulation 14(2), 15, 26 or 29(7) (if the requirement or direction is in documentary form),

(hereafter in this Regulation referred to as a “forged document”).

(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered—

- (a) a health certificate,
- (b) a restriction notice, notice under Regulation 23(5), compliance notice or vaccination notice,
- (c) a movement permit or sanitary slaughter permit,
- (d) a fish health authorisation, registration under Regulation 19, a harvesting licence or a quarantine licence,
- (e) a declaration under Regulation 11 or 12, or
- (f) a direction or requirement under Regulation 14(2), 15, 26 or 29(7) (if the requirement or direction is in documentary form),

(hereafter in this Regulation referred to as an “altered document”).

(3) A person shall not have, without lawful authority (the proof of which lies on him or her), in his or her possession or under his or her control a forged document or an altered document.

Fees

35. (1) The Marine Institute, with the consent of the Minister, may, from time to time, set and charge a fee in respect of an application for a health certificate,

a fish health authorisation, a movement permit, a harvesting licence, registration under Regulation 19, a quarantine licence and different fees (not exceeding the cost, estimated by the Marine Institute, of performing the function to which the fee relates) may be set and charged.

(2) The Marine Institute shall not consider an application for a health certificate, a fish health authorisation, registration under Regulation 19, a quarantine licence unless the application is accompanied by the appropriate fee (if any) set in accordance with paragraph (1).

(3) The Public Offices Fees Act 1879 (42 & 43 Vict. Cap 58) does not apply to a fee charged pursuant to this Regulation.

Exercise of Marine Institute functions

36. (1) The Marine Institute may exercise any function conferred on the Institute through its Chief Executive or through one or more officers of the Institute designated in writing by the Chief Executive to exercise the function.

(2) The Chief Executive of the Marine Institute may, by instrument in writing, withdraw a designation under paragraph (1).

Offences, etc.

37. (1) A person who contravenes or aids or abets a contravention of—

- (a) Article 5 or 6 of the Commission Decision or has in his or her possession or under his or her control an aquaculture animal or product that has been brought into the State in contravention of Article 5 of the Commission Decision, or
- (b) Regulation 4, 5,6(1), (2), 7 (1), (2), 9, 10 (4), 11(2),(5), 12(4), 13(1), (4), 16(1), 17(1), (6), 19(1), 20, 21, 22, 23(1), (3), (6), 24 (1), (5), 26, 27, 29(2), 30 (3), 31(7), 33 or 34,

commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both, or
- (ii) on conviction on indictment—
 - (I) in the case of a first offence, to a fine not exceeding €100,000, or to imprisonment for a term not exceeding 1 year, or to both, or
 - (II) in the case of a second or subsequent offence to a fine not exceeding €250,000, or to imprisonment for a term not exceeding 3 years, or to both.

(2) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any

person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she is guilty of the offence.

(3) If the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(4) A summary offence under these Regulations may be prosecuted by the Minister for Agriculture, Fisheries and Food.

Evidence on certificate

38. (1) In proceedings for an offence consisting of a contravention of these Regulations, a certificate purporting to be signed by a person employed at a laboratory named in the certificate stating the capacity in which that person is so employed and stating any one or more of the following, namely—

- (a) that the person received a sample submitted to the laboratory,
- (b) that, for such period as is specified in the certificate, the person had in his or her custody a sample so submitted,
- (c) that the person gave to such other person as is specified in the certificate a sample so submitted, or
- (d) that the person carried out any laboratory examination for the purpose of detecting the presence, in a sample so submitted, of specific disease, or that the sample was positive for the disease,

is, unless the contrary is shown, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Marine Institute and to certify that on a specific day or days or during the whole of a specified period—

- (a) a person was or was not the holder of a movement notice, or
- (b) that a particular movement notice was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Marine Institute, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In any proceedings, evidence of a notice, declaration, licence, permit or health certificate may be given by producing a copy of the notice, declaration, licence, permit or health certificate which has endorsed on it a certificate purporting to be signed by an officer of the Marine Institute stating that the copy is a true copy is, without proof of the signature of the person purporting to sign

the certificate or that he or she is an officer of the Marine Institute, evidence, unless the contrary is shown, of the notice.

(4) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under paragraph (1), (2) or (3) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

(5) In any proceedings, evidence of an act of the institutions of the European Communities may be given by production of a copy of the act certified by an officer of the Marine Institute to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Marine Institute.

(6) Paragraph (5) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Publication of notices and directions

39. The Marine Institute shall, as soon as may be after the making of a notice or declaration (unless service has been effected under Regulation 30) under these Regulations, cause notice of the making of the notice or declaration to be published in print or other media, including by electronic communication, in a manner that would be, in the opinion of the Institute, reasonably expected to inform a person affected of the terms of the notice or declaration.

Health certificates, etc.

40. (1) The Marine Institute may, for the purposes of Article 24 of the Council Directive, issue health certificates in respect of an aquaculture animal or product that complies with that Directive and these Regulations.

(2) An application for a health certificate shall be in a form and contain such information as the Marine Institute may require.

(3) A person shall not bring into the State or export from the State an aquaculture animal to which Article 44, 49, 50(1) or 50(2) of the Council Directive or the Commission Decision (so far as the Commission Decision relates to the State) refers—

(a) unless the aquaculture animal is accompanied by a health certificate, and

(b) the movement has been notified in accordance with Article 14(3) of the Council Directive at least 48 hours beforehand.

(4) A person shall not bring into the State or export from the State an aquaculture animal to which Article 44, 49, 50(1) or (2) does not refer unless the movement has been notified in accordance with Article 14(3) of the Council Directive at least 48 hours beforehand.

Wild aquatic animals and miscellaneous diseases

41. The Marine Institute may, for the purpose of controlling the risk or spread of a disease apply any provisions of these Regulations to—

- (a) wild aquatic animals, or
- (b) a disease not listed in Annex IV to the Council Directive or in the Commission Decision so far as the Commission Decision relates to the State.

Laboratories

42. The Marine Institute may, designate, by instrument in writing, a laboratory for the purposes of Article 57 of the Council Directive, and the persons for the time being employed or engaged in the analysis of samples at a laboratory so designated may perform the functions specified in that Article.

Revocations, amendment, etc.

43. (1) The following are revoked—

- (a) the European Communities (Aquaculture animals and fish) (Placing on the market and control of certain Diseases) Regulations 1996 (S.I. No. 253 of 1996),
- (b) the European Communities (Trade in Fish) Regulations 1997 (S.I. No. 191 of 1997),
- (c) the European communities (Importation of fish from Third countries) Regulations 1997 (S.I. No. 192 of 1997),
- (d) the European Communities (Minimum measures for the control of certain diseases affecting bivalve molluscs) Regulations 1999 (S.I. No. 26 of 1999), and
- (e) the European Communities (Minimum measures for the control of certain diseases affecting bivalve molluscs) (Amendment) Regulations 2001 (S.I. No. 17 of 2001).

(2) If there is a conflict between—

- (a) a condition of an aquaculture licence (within the meaning of Part VIA (inserted by the Foyle and Carlingford Fisheries Act 2007 of the Foyle Fisheries Act 1952 or the Fisheries (Amendment) Act 1997) and a condition of a fish health authorisation, the condition of the fish health authorisation prevails, or
- (b) between the Aquaculture Acts and these Regulations, these Regulations prevail.

(3) The European Communities (Veterinary checks on fish and fishery products imported from third countries) Regulations 2003 (S.I. No. 548 of 2003) are

amended, in Regulation 2(1) by the substitution for the definition of “Directive”, of—

“ ‘Directive’ means Council Directive No. 91/496/EEC of 15 July 1991 as amended by Council Decision No. 92/438/EEC of 13 July 1992, and Council Directive No. 97/78/EC of 18 December 1997;”



GIVEN under my Official Seal,
10 July 2008

BRENDAN SMITH.
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE.

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

These Regulations give effect to 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. The Regulations replace and revoke existing Regulations in this field.

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