



EUROPEAN COMMUNITIES (ISLE OF MAN) ACT 1973

AQUATIC ANIMAL HEALTH REGULATIONS 2009

Made on: 28 September 2009
Coming into operation: 1 October 2009
Laid before Tynwald: 20 October 2009

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The Council of Ministers makes these Regulations under section 2B of the European Communities (Isle of Man) Act 1973¹.

PART I GENERAL

1 Title

These are the Aquatic Animal Health Regulations 2009.

2 Commencement

These Regulations come into force on 1 October 2009.

3 Application

- (1) These Regulations implement Directive 2006/88/EC only to the extent that it applies as part of the law of the Island under section 2(1) the European Communities (Isle of Man) Act 1973.
- (2) These Regulations do not apply to—
 - (a) any ornamental aquatic animal reared in a non-commercial aquarium;
 - (b) any aquatic animal caught for the purpose of production of fishmeal, fish feed, fish oil or any similar product;
 - (c) any wild aquatic animal harvested or caught for direct entry into the food chain other than one which is to be treated as an aquaculture animal under regulation 18(3).

Price Band: C Price £2.50

¹ 1973 c. 14. Section 2B was originally inserted by section 3 of the European Communities (Amendment) Act 1988 as section 2A and renumbered as section 2B by section 1 of the European Communities (Amendment) Act 1991: that section also inserted paragraphs (c) and (d) of subsection (1) of section 2B.

4 Interpretation

(1) In these Regulations—

“the Department” means the Department of Agriculture, Fisheries and Forestry;

“Decision 2004/453/EC” means Commission Decision 2004/453/EC on implementing Council Directive 91/67/EEC as regards measures against certain diseases in aquaculture animals²

“Directive 2006/88/EC” means Council Directive 2006/88/EC on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals³;

“the Island” includes the Island’s territorial sea;

“inspector” means any person authorised by the Department to be an inspector for the purposes of these Regulations;

“listed disease” means—

- (a) a disease listed in the second column of Part II of Annex IV to Directive 2006/88/EC; or
- (b) a disease listed in the first column of the Schedule to these Regulations;

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

“operator”, in relation to an aquaculture production business, a specialist transport business, processing establishment, non-commercial installation or put and take fishery, means any person who is responsible for the management of that business, establishment, installation or fishery;

“processing establishment” means any food business which is approved for processing aquaculture animals for food purposes in accordance with Article 4 of Regulation (EC) No. 853/2004⁴ laying down specific hygiene rules for food of animal origin, and which processes aquaculture animals under Part 4 of these Regulations;

² OJ No L 156, 30.4.2004.

³ OJ No L 328, 24.11.2006.

⁴ OJ No L 139, 30.4.2004.

“Regulation (EC) No.1251/2008” means Commission Regulation (EC) No.1251/2008⁵ on implementing Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species;

“specialist transport business” means a business or undertaking which wholly or mainly transports live aquaculture animals in a mode of transport specially designed or adapted for that purpose.

- (2) Any expression used in these Regulations which is also used in Directive 2006/88/EC (except for the definitions of “operator” and “processing establishment” in paragraph (1) and “wild aquatic animal” in regulation 19(5)) has the meaning it bears in that Directive.
- (3) The Schedule (list of diseases) has effect.

PART II

AUTHORISATION AND REGISTRATION REQUIREMENTS

5 Application of Part II

- (1) This Part does not apply by reason of an ornamental aquatic animal being kept in any pet shop, garden centre, garden pond, commercial aquarium or by any wholesaler—
 - (a) without any direct contact with natural waters; or
 - (b) in contact with such waters in circumstances where the risk of transmitting diseases to those waters is reduced to an acceptable level by an effluent treatment system.
- (2) But this Part does apply if the animal is kept by a person who has introduced it into the Island.

6 Authorisation

- (1) A person who operates an aquaculture production business or a processing establishment commits an offence unless the business or establishment is authorised by the Department.

But this is subject to regulation 15 (transitional provision).

- (2) The Department may grant an authorisation in relation to two or more aquaculture production businesses which are situated in one mollusc farming area, provided the businesses relate exclusively to molluscs.

⁵ OJ L 337, 16.12.2008.

But a dispatch centre, purification centre or similar business in a mollusc farming area must be separately authorised.

- (3) The requirement for a non-commercial installation or put and take fishery to be authorised under paragraph (1) only applies if the Department—
 - (a) considers that authorisation is necessary to prevent or limit the spread of disease; and
 - (b) serves the operator with a written notice to that effect.
- (4) If the operator is served with a notice under paragraph (3)(b), the operator must apply for authorisation under regulation 9(1) within 28 days of the service of the notice.
- (5) If the operator makes such an application, the operator is to be treated as having, as from the date of the application, an interim authorisation to carry on the activity to which the application relates until the interim authorisation lapses on the earliest of the dates mentioned in regulation 15(3).

7 Authorisation conditions for aquaculture production businesses

- (1) The Department may grant an authorisation to an aquaculture production business, subject to such conditions as it considers appropriate, where it is satisfied that the operation of the business will not lead to an unacceptable risk of spreading disease.
- (2) It is a condition of an authorisation that the aquaculture production business must—
 - (a) keep a record, in such form and manner as the Department may specify, of—
 - (i) the movement of any aquaculture animal or any aquaculture animal product into or out of the premises of the business;
 - (ii) the number of any aquaculture animals that have died in each epidemiological unit within the premises;
 - (iii) the results of any surveillance carried out by the business; and
 - (iv) the results of any surveillance carried out by the Department which have been notified to the business;
 - (b) follow good hygiene practice; and
 - (c) comply with any surveillance requirement imposed by the Department.

8 Authorisation conditions for processing establishments

- (1) The Department may grant an authorisation to a processing establishment, subject to such conditions as it considers appropriate, if satisfied that the operation of the establishment will not lead to an unacceptable risk of spreading disease.
- (2) It is a condition of an authorisation that the processing establishment must—
 - (a) keep a record, in such form and manner as the Department may specify, of the movement of any aquaculture animal or any aquaculture animal product into or out of the premises of the establishment; and
 - (b) follow good hygiene practice.

9 Application for an authorisation

- (1) An application for an authorisation must be in such form and contain such information as the Department may reasonably require.
- (2) The Department must serve an applicant with a written notice of the result of the application within 90 days of receiving it.
- (3) If the Department grants an authorisation, it must notify the applicant of the following—
 - (a) the duration of the authorisation;
 - (b) any condition to which it is subject; and
 - (c) an authorisation number.
- (4) If the Department refuses to grant an authorisation, or grants an authorisation subject to any condition, it must—
 - (a) give reasons for the refusal or the imposition of the condition; and
 - (b) inform the applicant of the right of review under regulation 39.
- (5) A person who makes a statement in an application that is false and which that person knows or suspects to be false commits an offence.

10 Amendment of an authorisation

- (1) The Department may amend an authorisation, including any condition to which it is subject.
- (2) The amendment may be made—
 - (a) on the initiative of the Department; or
 - (b) on application by an operator.

- (3) An application under paragraph (2)(b) must be in such form and contain such information as the Department may reasonably require.
- (4) The Department must serve a written notice on the operator which—
 - (a) specifies the amendment or any decision not to make the amendment;
 - (b) gives the reason for the amendment or any decision not to make it; and
 - (c) informs the applicant of the right of review under regulation 39.

11 Suspension of an authorisation

- (1) The Department may suspend an authorisation by serving an operator with a written notice if it considers that an aquaculture production business, processing establishment, non-commercial installation or put and take fishery authorised under this Part has not complied with, is not complying with, or is not likely to comply with, a condition of its authorisation or a requirement in these Regulations.
- (2) The notice must—
 - (a) give the date on which the suspension is to take effect and its duration;
 - (b) give the reason for the suspension; and
 - (c) inform the operator of the right of review under regulation 39.

12 Revocation of an authorisation

- (1) The Department may revoke an authorisation by serving an operator with a written notice where it considers that an aquaculture production business, processing establishment, non-commercial installation or put and take fishery authorised under this Part has not complied with, is not complying with, or is not likely to comply with, a condition of its authorisation or a requirement in these Regulations.
- (2) The notice must—
 - (a) give the date on which the revocation is to take effect;
 - (b) give the reason for the revocation; and
 - (c) inform the operator of the right of review under regulation 39.

13 Registration

- (1) A person who operates a non-commercial installation, put and take fishery or specialist transport business which is not registered by the Department commits an offence.

- (2) An application for registration must be in such form and contain such information as the Department may reasonably require.
- (3) On receipt of the information, the Department must—
 - (a) undertake the registration; and
 - (b) serve the operator with a written notice of a registration number.
- (4) An operator must notify the Department in writing of any change in the information provided under paragraph (2) within 90 days of the change.
- (5) An operator who fails to comply with paragraph (4) commits an offence.
- (6) A person who provides information to the Department that is false and which that person knows or suspects to be false commits an offence.
- (7) This regulation does not apply where a non-commercial installation or put and take fishery is required to be authorised by virtue of regulation 6(1) and (3).

14 Public record of aquaculture production businesses and processing establishments

- (1) The Department must establish and maintain a record of—
 - (a) any aquaculture production business authorised under regulation 6; and
 - (b) any processing establishment authorised under regulation 8.
- (2) The record must contain the information set out in Part I of Annex II to Directive 2006/88/EC for a business authorised under regulation 7.
- (3) The record must contain the information set out in Part II of that Annex for an establishment authorised under regulation 8.
- (4) The record must be publicly available for inspection free of charge at all reasonable times.
- (5) The Department must make arrangements for the provision of a copy of an entry in the record on request.
- (6) Those arrangements may include payment of a reasonable fee by the person making the request.

15 Transitional provision

- (1) This regulation applies where—
 - (a) a person operates an aquaculture production business or a processing establishment on 1 October 2009; and

- (b) makes an application for an authorisation under regulation 6 or 9 (as the case requires) which has not been finally decided before 1 October 2009.
- (2) The operator is to be treated as having, as from 1 October 2009, an interim authorisation to carry on the activity to which the application relates until that authorisation lapses in accordance with paragraph (3).
- (3) It lapses if—
 - (a) the application is withdrawn;
 - (b) the Department grants an authorisation under regulation 6 or 9;
 - (c) the Department refuses to grant an authorisation under regulation 6 or 9 and the applicant does not apply for a review, on the date on which the right to a review lapses under regulation 39;
 - (d) the Department refuses to grant an authorisation under regulation 6 or 9 and the applicant does apply for a review, on the date on which the review (or any appeal from it) is finally decided.

PART 3

PLACING ON THE MARKET

16 Application of Part 3

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

17 General health requirements

- (1) A person commits an offence if the person places on the market any aquaculture animal for farming or to release any such animal into the wild or into a put and take fishery, unless the animal—
 - (a) is clinically healthy; and
 - (b) comes from a farm or mollusc farming area where there is no unexplained increased mortality.
- (2) Paragraph (1)(b) does not apply if—

- (a) the animal comes from a part of the farm or mollusc farming area independent of the epidemiological unit in which the increased mortality has occurred; and
 - (b) the placing on the market of the animal has the prior written consent of the Department.
- (3) A person commits an offence if the person releases any ornamental aquatic animal kept in a closed ornamental facility into an open ornamental facility, farm, mollusc farming area, relaying area, put and take fishery or into the wild, without the prior written consent of the Department.
- (4) A person commits an offence if the person contravenes any of the following provisions of Regulation (EC) No.1251/2008—
- (a) Article 9 (introduction of aquaculture animals after inspection);
 - (b) Article 15(1), (2) or (3) (requirements for the release of aquaculture animals or aquaculture animal products and for transport water).
- (5) In paragraph (3) “closed ornamental facility” and “open ornamental facility” have the same meaning as in Article 2(a) and (b) of Regulation (EC) No.1251/2008.

18 Certification requirements

- (1) A person who introduces any aquaculture animal or any aquaculture animal product into the Island where the animal or product is required to be accompanied by an animal health certificate under Article 5 of Decision 2004/453/EC or Chapter III or IV of Regulation (EC) No.1251/2008 commits an offence unless the animal or product is accompanied by such a certificate completed in accordance with the relevant model specified in that Article or Chapter.
- (2) A person commits an offence if, for the purpose of procuring the issue of an animal health certificate under Article 5 of Decision 2004/453/EC or Chapter III of Regulation (EC) No.1251/2008, that person—
- (a) makes a statement that is false and which that person knows or suspects is false; or
 - (b) intentionally fails to disclose any material particular.
- (3) In paragraph (1) the reference to the introduction of any aquaculture animal or any aquaculture product into the Island includes the introduction of any such animal or product into any zone or compartment within the Island from any other zone or compartment within the Island.

19 **Additional certification provisions**

- (1) If any aquaculture animal that is susceptible to a disease listed in the second column of Part II of Annex IV to Directive 2006/88/EC or is a vector for that disease is introduced into the Island with the intention of being released into the wild or into a put and take fishery, the place of introduction is, for the purpose of regulation 18(1), to be treated as though it had, in relation to that disease, a Category I disease-free health status under Part A of Annex III to that Directive.
- (2) If any wild aquatic animal that is susceptible to a listed disease or is a vector for that disease is introduced into the Island with the intention of being released into the wild or into a put and take fishery, the animal is, for the purposes of regulations 18(1) and 19(1), to be treated as though it were an aquaculture animal introduced with the intention of being released into the wild or into a put and take fishery.
- (3) If any wild aquatic animal, that is susceptible to a listed disease or is a vector for that disease, is introduced into the Island for further processing before human consumption, the animal is, for the purpose of regulation 18(1), to be treated as though it were an aquaculture animal introduced for further processing before human consumption.
- (4) In paragraph (1)—
 - (a) an animal is susceptible to a disease listed in the second column of Part II of Annex IV to Directive 2006/88/EC if it appears in the third column of that Part opposite the reference to the disease in the second column of that Part;
 - (b) an animal is a vector for a disease if it appears in Column 2 of the table in Annex I to Regulation (EC) No.1251/2008 opposite the reference to the disease in Column 1 and it fulfils the conditions set out in Columns 3 and 4 of that table.
- (5) In paragraphs (2) and (3)—
 - (a) "wild aquatic animal" means any live aquatic animal that can survive in the natural aquatic environment in the Island and is not an aquaculture animal;
 - (b) an animal is susceptible to a listed disease if it appears—
 - (i) in the third column of Part II of Annex IV to Directive 2006/88/EC opposite the reference to the disease in the second column of that Part; or
 - (ii) in the column 2 of the Schedule to these Regulations opposite the reference to the disease in the column 1 of that Schedule;

- (c) an animal is a vector for a listed disease if it appears in Column 2 of the table in Annex I to Regulation (EC) No.1251/2008 opposite the reference to the disease in Column 1 and it fulfils the conditions set out in Columns 3 and 4 of that table.
- (6) In paragraph (1) and (3) the reference to the introduction of any animal into the Island includes the introduction of any such animal into any zone or compartment within the Island from any other zone or compartment within the Island.

20 Disease prevention requirements in respect of transport

- (1) A person who transports any aquaculture animal without complying with the requirements in paragraph (2) commits an offence.
- (2) The requirements are—
 - (a) the duration of the transport must be as short as reasonably possible;
 - (b) the means of transport must be cleaned and disinfected before dispatch;
 - (c) if the animal is transported overland in water—
 - (i) it must be transported in such a way that the water cannot escape from the means of transport; and
 - (ii) any water exchange is carried out only at a water station which the Department has approved; and
 - (d) the conditions of transport must minimise the risk of spreading disease to—
 - (i) the animal being transported;
 - (ii) any aquatic animal at any place of transit;
 - (iii) any aquatic animal at the place of destination.
- (3) If a person imports from a third country any aquaculture animal which is intended for quarantine the person must transport the animal directly from the border inspection post to a quarantine facility.
- (4) If a person transports an animal to which paragraph (3) applies otherwise than directly to a quarantine facility, the person commits an offence.
- (5) In paragraph (3)—
 - (a) "border inspection post" means a border inspection post for the purposes of Commission Decision 2001/881/EC of 7 December 2001⁶ drawing up a list of border inspection posts agreed for veterinary

⁶ OJ L 326, 11.12.2001

checks on animals and animal products from third countries and updating the detailed rules concerning the checks to be carried out by the experts of the Commission;

- (b) "quarantine facility" has the meaning given in Article 2(1) of Commission Decision 2008/946/EC on implementing Council Directive 2006/88/EC as regards requirements for quarantine of aquaculture animals⁷.

21 Recording of information in respect of transport

- (1) A person who transports any aquaculture animal must record the information specified in paragraph (2), and must keep that record for a period of two years beginning with the date on which the aquaculture animal reaches its destination.
- (2) The information is—
 - (a) the number of any animals that die in the course of transport;
 - (b) all facilities operating under an authorisation or registration granted under Part 2 which are visited by the animals while being transported;
 - (c) any water exchange while the animals are being transported;
 - (d) the source of any water introduced into the means of transport; and
 - (e) the location at which any water from the means of transport is discharged.
- (3) The Department must specify the form and manner in which the information referred to in paragraph (2) must be recorded.
- (4) A person who fails to comply with paragraph (1) commits an offence.
- (5) It is a defence for a person charged in relation to paragraph (2)(a) to show that it was not practicable to keep such a record.

22 Exemption for transport in small containers

Regulations 20(1) and (2) and 21 do not apply where the transport is by means of a container which—

- (a) is watertight and airtight;
- (b) is no larger than one cubic metre; and
- (c) is accompanied by a label or document which lists its contents, place of origin, any place of transit and its place of destination.

⁷ OJ No L 337, 16.12.2008

PART IV

NOTIFICATION AND CONTROL OF DISEASE OUTBREAKS

23 Interpretation of Part IV

In this Part—

“confirmed designation” means a designation made by the Department under regulation 30;

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

“initial designation” means a designation made by the Department under regulation 26;

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

24 Obligation to notify in case of suspicion of a listed disease or increased mortality

(1) A relevant person commits an offence if that person—

- (a) knows or suspects that a listed disease is present in aquatic animals; and
- (b) fails immediately to notify the Department of the information or other matter on which that knowledge or suspicion is based.

(2) A relevant person commits an offence if that person—

- (a) knows or suspects that increased mortality has occurred or is occurring in aquaculture animals; and
- (b) fails immediately to notify the Department or a veterinarian of the information or other matter on which that knowledge or suspicion is based.

(3) For the purposes of this regulation “a relevant person” is—

- (a) the owner of, or any person attending, aquatic animals;
- (b) any person accompanying aquaculture animals during transport;
- (c) any veterinarian, or other professional, involved in aquatic animal health services; or
- (d) any other person with an occupational relationship to aquatic animals of susceptible species or to products of such animals.

25 Vaccination

It is an offence to vaccinate an aquatic animal against a listed disease without the prior written consent of the Department.

26 Initial designation

- (1) If the Department suspects that a listed disease or an emerging disease is present, or may become present, in aquatic animals in the Island, it must designate such area as it considers appropriate to prevent or limit the spread of that disease.
- (2) If the Department has made an initial designation, it must—
 - (a) take samples of any water or aquatic animals which it suspects are infected;
 - (b) examine the samples in a laboratory in Great Britain designated under Article 57 of Directive 2006/88/EC; and
 - (c) undertake an epizootic investigation in accordance with Article 29 of that Directive.
- (3) A person commits an offence if, without the prior written consent of the Department, that person—
 - (a) moves any aquatic animal into, out of or within an initial designation area; or
 - (b) disposes of any dead aquatic animal which comes from that area.

27 Contents and publication of an initial designation

- (1) An initial designation must—
 - (a) be in the form of a written notice;
 - (b) describe the initial designation area;
 - (c) describe the circumstances in which a person commits an offence under regulation 26(3);
 - (d) specify any consent given by the Department under regulation 26(3).
- (2) An initial designation may specify that—
 - (a) any equipment, material or substance liable to transmit disease must not be moved into, out of or within the initial designation area or any part of that area;
 - (b) any means of transport liable to transmit disease must not be moved into, out of or within that area or any part of that area.
- (3) The Department must serve a copy of an initial designation on any person it considers likely to be materially affected by the making of the designation.
- (4) A person who fails to comply with any restriction imposed under paragraph (2) commits an offence.

28 Actions by an inspector in respect of an initial designation

- (1) This regulation applies if the Department has made an initial designation.
- (2) An inspector may—
 - (a) take samples of any aquatic animal or water in the initial designation area;
 - (b) slaughter, destroy or dispose of any such animal.
- (3) An inspector may by written notice direct any person to—
 - (a) take steps to secure the slaughter, destruction or disposal of any aquatic animal in the initial designation area;
 - (b) operate a disinfection facility at the entrance to, and exit from, any farm or mollusc farming area in that area;
 - (c) disinfect any means of transport in that area;
 - (d) take any other steps which the inspector considers necessary to eradicate the disease or to prevent or limit the spread of the disease to other aquatic animals.
- (4) An inspector may by written notice prohibit any person from entering any farm or mollusc farming area within the initial designation area.
- (5) If an inspector considers that a requirement under paragraph (3) has not been complied with, the inspector may—
 - (a) enter any place within the initial designation area;
 - (b) take or cause to be taken such steps as the inspector considers necessary to—
 - (i) ensure compliance with the requirement; or
 - (ii) remedy the consequences of the failure to carry it out;
 - (c) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the requirement.
- (6) A person who fails to comply with a requirement imposed under paragraph (3) or (4) commits an offence.

29 Withdrawal of initial designation

The Department must withdraw an initial designation if—

- (a) it is satisfied that the suspected disease is not present, or is not likely to become present, in the initial designation area; or
- (b) it has designated the area under regulation 30.

30 Confirmed designation

- (1) If the Department has confirmed that a listed disease or an emerging disease is present in aquatic animals in the Island, it must designate such area as it considers appropriate to prevent or limit the spread of that disease.
- (2) A person commits an offence if, without the prior written consent of the Department, that person—
 - (a) moves any aquatic animal into, out of or within a confirmed designation area; or
 - (b) disposes of any dead aquatic animal which comes from that area.

31 Contents and publication of a confirmed designation

- (1) A confirmed designation must—
 - (a) be in the form of a written notice;
 - (b) describe the confirmed designation area;
 - (c) describe the circumstances in which a person commits an offence under regulation 30(2);
 - (d) specify any consent given by the Department under regulation 30(2).
- (2) A confirmed designation may specify that—
 - (a) any equipment, material or substance liable to transmit disease must not be moved into, out of or within the confirmed designation area or any part of that area;
 - (b) any means of transport liable to transmit disease must not be moved into, out of or within that area or any part of that area.
- (3) The Department must—
 - (a) publish a confirmed designation in such manner as it considers appropriate;
 - (b) serve a copy of a confirmed designation on any person it considers likely to be materially affected by the making of the designation.
- (4) A person who fails to comply with any restriction imposed under paragraph (2) commits an offence.

32 Actions by an inspector in respect of a confirmed designation

- (1) This regulation applies where the Department has made a confirmed designation.
- (2) An inspector may—

- (a) take samples of any aquatic animal or water in the confirmed designation area;
 - (b) slaughter, destroy or dispose of any such animal.
- (3) An inspector may by written notice direct any person to—
- (a) take steps to secure the slaughter, destruction or disposal of any aquatic animal in the confirmed designation area;
 - (b) operate a disinfection facility at the entrance to, and exit from, any farm or mollusc farming area in that area;
 - (c) disinfect any means of transport in that area;
 - (d) take any other steps which the inspector considers necessary to eradicate the disease or to prevent or limit the spread of the disease to other aquatic animals.
- (4) An inspector may by written notice prohibit any person from entering any farm or mollusc farming area within the confirmed designation area.
- (5) Where an inspector considers that a requirement under paragraph (3) has not been complied with, the inspector may—
- (a) enter any place within the confirmed designation area;
 - (b) take or cause to be taken such steps as the inspector considers necessary to—
 - (i) ensure compliance with the requirement; or
 - (ii) remedy the consequences of the failure to carry it out;
 - (c) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the requirement.
- (6) A person who fails to comply with a requirement imposed under paragraph (3) or (4) commits an offence.

33 Withdrawal of confirmed designation

The Department must withdraw a confirmed designation when it is satisfied that the listed disease or the emerging disease is not present in the confirmed designation area.

PART IV

ENFORCEMENT, REVIEWS AND APPEALS

34 Entry and inspection of land and premises

- (1) An inspector may, on producing a duly authenticated document showing the inspector's authority if required, enter and inspect any land

or premises at any reasonable time for the purposes of administering and enforcing these Regulations.

- (2) An inspector may be accompanied by—
 - (a) any person, equipment or vehicle as the inspector considers necessary;
 - (b) any representative of the European Commission acting for the purposes of Directive 2006/88/EC.
- (3) An inspector may not enter any premises that are a dwelling unless a justice of the peace has issued a warrant authorising the inspector to do so.
- (4) A justice of the peace may only issue such a warrant if satisfied that there is good reason to believe that the inspector will not be able to administer or enforce these Regulations without the warrant.
- (5) A warrant issued under paragraph (3) remains in force—
 - (a) for one month; or
 - (b) until the purpose for which it is issued has been fulfilled, whichever is the sooner.

35 Search and examination of items on land and premises

If an inspector exercises the power conferred by regulation 34 the inspector may—

- (a) search the land or premises for any item, including any aquatic animal or water;
- (b) examine anything that is—
 - (i) on the land or premises;
 - (ii) attached to or otherwise forms part of the land or premises.

36 Production of documents

For the purposes of administering or enforcing these Regulations, an inspector may require any person—

- (a) to produce any document or record that is in that person's possession or control;
- (b) to render any such document or record on a computer system into a visible and legible form, including requiring it to be produced in a form in which it may be taken away.

37 Seizure of items

- (1) This regulation applies where an inspector exercises the powers conferred by regulation 35 or 36.
- (2) An inspector may—
 - (a) seize, detain or remove any item that is on the land or premises;
 - (b) take copies of or extracts from any document or record found on the land or premises.
- (3) The power conferred in paragraph (2)(a) is to be construed as including power to take samples of any aquatic animal or water.
- (4) An inspector to whom any document or record has been produced, in accordance with a requirement imposed under regulation 36, may—
 - (a) seize, detain or remove that document or record;
 - (b) take copies of or extracts from that document or record.
- (5) If, in the opinion of the inspector, it is not for the time being practicable for the inspector to seize and remove any item, the inspector may require any person on the land or premises to secure that the item is not removed or otherwise interfered with until such time as the inspector may seize and remove it.
- (6) The powers conferred by this regulation may only be exercised—
 - (a) for the purposes of determining whether an offence under these Regulations has been committed; or
 - (b) in relation to an item which an inspector reasonably believes to be evidence of the commission of an offence under these Regulations.
- (7) Any item seized by an inspector may be disposed of as the Department sees fit.
- (8) It is an offence not to comply with a requirement imposed under paragraph (5).

38 Enforcement notices

- (1) If the Department considers that any person has not complied with, is not complying with, or is not likely to comply with, a condition of an authorisation under Part 2 or a requirement in these Regulations, it may serve that person with an enforcement notice.
- (2) An enforcement notice must state—
 - (a) the steps which the person must take;
 - (b) the date by which the steps must be taken;

- (c) the reason for the service of the notice and for the requirements in it;
 - (d) that there is a right of review under regulation 39.
- (3) If an inspector considers that a requirement in an enforcement notice has not been complied with, the inspector may —
- (a) take such steps as the inspector considers necessary —
 - (i) to ensure compliance with the requirements of the notice; or
 - (ii) to remedy the consequences of the failure to carry them out;
 - (b) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the notice.
- (4) It is an offence not to comply with an enforcement notice.

39 Reviews and appeals

- (1) A person aggrieved may require the Department to cause any of the following to be reviewed —
- (a) the refusal to grant the person an authorisation under regulation 9;
 - (b) a condition to which an authorisation given to the person is subject;
 - (c) an amendment made to an authorisation given to the person under regulation 10 or a decision not to grant an amendment under that regulation;
 - (d) a suspension or revocation of an authorisation given to the person under regulation 11 or 12;
 - (e) the service on the person of an enforcement notice under regulation 38.
- (2) A person aggrieved may within 21 days beginning with the date on which the relevant event occurs serve the Department with a written notice that the person wishes to —
- (a) appear before and be heard by an independent person appointed by the Department; or
 - (b) provide written representations to the Department.
- (3) If a person aggrieved gives notice under paragraph (2)(a) —
- (a) the Department must appoint an independent person to hear representations and specify a time limit within which representations to that person must be made;
 - (b) if the appellant requests, the hearing must be in public;

- (c) the person appointed must report to the Department; and
- (d) if the person aggrieved so requests, the Department must provide a copy of the appointed person's report to the person aggrieved.
- (4) If the person aggrieved gives notice under paragraph (2)(b)—
 - (a) the Department must appoint an independent person to consider the representations; and
 - (b) the requirements in paragraph (3)(c) and (d) apply.
- (5) Once it has received the appointed person's report, the Department must within 28 days serve the person aggrieved with a written notice of its decision on review, the reasons for it and informing the person aggrieved that he or she has the right of appeal to the High Bailiff against the decision on review.
- (6) The person aggrieved may exercise the right of appeal under paragraph (5) by delivering a notice of appeal in writing to the Department and the High Bailiff within 21 days of the receipt of the notice mentioned in paragraph (5).
- (7) The High Bailiff's decision on an appeal under paragraph (6) is final.

PART VI
MISCELLANEOUS

40 Public register of disease-free zones and compartments

- (1) The Department must establish and maintain a register of declarations made by the Department under Article 50 of Directive 2006/88/EC.
- (2) The register must be publicly available for inspection free of charge at all reasonable times and at such place as determined by the Department.

41 Disclosure of information

- (1) The Department, the Department of Local Government and the Environment and any local authority may disclose information to each other for the purposes of Directive 2006/88/EC or these Regulations.
- (2) The Department may disclose information to the equivalent authority in a Member State for the purposes of Directive 2006/88/EC, these Regulations or any enactment having corresponding effect in that Member State.

42 Service of notices

- (1) Any notice served under these Regulations may be served on a person by—

- (a) delivering it to that person;
 - (b) sending it by post;
 - (c) transmitting it electronically.
- (2) Where the person on whom a notice to be served is a body corporate, the notice is duly served if it is served on the secretary or clerk of that body.
- (3) For the purposes of this regulation and section 41 of the Interpretation Act 1976 (service of documents) in its application to this regulation, the proper address of any person to whom a notice is to be given is—
- (a) if the person has given an address for service, that address;
 - (b) if no address has been given—
 - (i) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body;
 - (ii) in any other case, the person's last known address at the time of service.
- (4) If the notice is transmitted electronically, it is to be treated as duly served if—
- (a) the person upon whom the notice is required or authorised to be served ("the recipient") has indicated to the person serving the notice the recipient's willingness to receive notices transmitted by electronic means and has provided an address suitable for that purpose; and
 - (b) the notice is sent to the address provided.

43 Obstruction

It is an offence—

- (a) intentionally to obstruct any person acting in the execution of these Regulations;
- (b) to fail without reasonable cause to give to such person any assistance or information which that person may reasonably require for the purposes of that person's functions under these Regulations; or
- (c) knowingly or recklessly to give false or misleading information to such person.

44 Offences by bodies corporate

- (1) If an offence under these Regulations committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer; or
 - (b) to be attributable to any neglect on the part of the officer, that officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.
- (3) "Officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

45 Penalties

A person who commits an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding £5,000
- (b) on conviction on information, to a fine.

Made 28th September 2009

Mary Williams
Chief Secretary

SCHEDULE

Regulation 4(3)

LIST OF DISEASES

<i>Disease</i>	<i>Susceptible species</i>
Infection with <i>Gyrodactylus salaricus</i>	Atlantic salmon (<i>Salmo salar</i>), rainbow trout (<i>Oncorhynchus mykiss</i>), Arctic char (<i>Salvelinus alpinus</i>), North American brook trout (<i>S. fontinalis</i>), grayling (<i>Thymallus thymallus</i>), North American lake trout (<i>Salvelinus namaycush</i>), and brown trout (<i>Salmo trutta</i>). Other species of fish on sites where any of the above species are present shall also be considered as susceptible species.
Bacterial kidney disease	Fish belonging to the family <i>Salmonidae</i> .
Spring viraemia of carp	Bighead carp (<i>Aristichthys nobilis</i>), goldfish (<i>Carassius auratus</i>), crucian carp (<i>C. carassius</i>), grass carp (<i>Ctenopharyngodon idellus</i>), common carp and koi carp (<i>Cyprinus carpio</i>), silver carp (<i>Hypophthalmichthys molitrix</i>), sheatfish (<i>Silurus glanis</i>) and tench (<i>Tinca tinca</i>).
Infectious pancreatic necrosis (IPN)	Rainbow trout (<i>Oncorhynchus mykiss</i>), brook trout (<i>Salvelinus fontinalis</i>), brown trout (<i>Salmo trutta</i>), Atlantic Salmon (<i>Salmo salar</i>), and several Pacific salmon species (<i>Oncorhynchus spp</i>)

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement Council Directive 2006/88/EC (OJ No L 238, 24.11.2006, p14) on animal health requirements for aquaculture animals and products thereof and on the prevention and control of certain diseases in aquatic animals to the extent that the Directive is applicable to the Isle of Man under the Island's relationship with the European Community by virtue of Protocol 3 to the United Kingdom's Treaty of Accession to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.
2. Part II of these Regulations requires aquaculture production businesses and certain processing establishments to be authorised by the Department (regulation 6). Some undertakings, including put and take fisheries and specialist transport businesses, are required to be registered (regulation 13).
3. Part III imposes health requirements in relation to the placing on the market of aquaculture and other aquatic animals. It also introduces disease prevention requirements in respect of the transport of such animals (regulations 20 to 22).
4. Part IV establishes a system for the notification and control of disease outbreaks in aquatic animals. The Department is required to designate an area where a listed disease or an emerging disease is suspected (regulation 26) and to make a confirmed designation (regulation 30) where such a disease is confirmed. Inspectors are given powers to require others to take steps necessary to eradicate or prevent the spread of disease to other aquatic animals (regulations 28 and 32).
5. Part V gives enforcement powers to inspectors (regulations 34 to 37), and allows the service of an enforcement notice (regulation 38). Regulation 39 provides mechanisms for reviews of, and appeals against such a notice or in relation to an authorisation under Part II.
6. Part VI contains miscellaneous procedural provisions. It also specifies maximum penalties for offences. A person guilty of an offence under these Regulations is liable to a fine of £5,000 on summary conviction and, on conviction on information to an unlimited fine (regulation 45).