

Statutory Rule 1996 No. 16

Diseases of Fish (Control) Regulations (Northern Ireland) 1996

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1996 No. 16

DISEASES OF FISH

Diseases of Fish (Control) Regulations (Northern Ireland) 1996

Made 18th January 1996

Coming into operation 23rd February 1996

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

Citation and commencement

1. These Regulations may be cited as the Diseases of Fish (Control) Regulations (Northern Ireland) 1996 and shall come into operation on 23rd February 1996.

Interpretation

2.—(1) In these Regulations—

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

"Directive 90/667/EEC" means Council Directive of 27th November 1990 laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedingstuffs of animal or fish origin^[3] which has been amended as set out in Schedule 1;

"Directive 91/67/EEC" means Council Directive of 28th January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products^[4] which has been amended as set out in Schedule 1;

"farm" includes a farm in marine waters;

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

"infected" in relation to—

(a) a farm, means a farm containing infected fish as well as a farm from which infected fish have been removed but which has not yet been disinfected in accordance with these Regulations;

(b) any fish, means the presence in that fish of a disease listed in Part I or Part II of Schedule 3 officially confirmed by laboratory examination or, in the case of Infectious Salmon Anaemia, by a clinical examination and a post mortem examination;

"infected waters order" has the meaning assigned to it by section 1(1) of the Diseases of Fish Act (Northern Ireland) 1967^[5]; and

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

(2) All other expressions have the meaning they bear in the Fish Health Regulations (Northern Ireland) 1993^[6].

(3) All notices served under these Regulations and any authorisation granted under regulation 8(2) or 9(2)—

(a) shall be in writing;

(b) may be made subject to conditions; and

(c) may be amended, suspended or revoked in writing at any time.

(4) The control measures provided for in regulations 4 to 9 are without prejudice to any measures which may be taken to prevent, eradicate or control fish disease under the provisions of the Fisheries Act (Northern Ireland) 1966^[7], the Diseases of Fish Act (Northern Ireland) 1967 or the Fish Health Regulations (Northern Ireland) 1993.

(5) The Interpretation Act (Northern Ireland) 1954^[8] shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Official census

3.—(1) Where a farm contains fish suspected of being infected, as soon as possible after the farm has been made subject to an infected waters order, the Department shall—

(a) conduct a census of the fish on the farm; and

(b) notify the information obtained as a result thereof to the occupier of the farm.

(2) The census conducted under paragraph (1) shall obtain the information set out in Schedule 2.

(3) The occupier of any farm shall keep a record of the information notified to him under paragraph (1)(b) in such a place that it shall be available on request to the Department or, when an inspection of the farm is carried out, to an inspector.

(4) After a census has been conducted in relation to any farm under paragraph (1) it shall be the duty of the occupier of the farm, while the farm contains fish suspected of being infected, to check regularly and to note any—

(a) increase in the population, or

(b) new mortality,

of the fish on the farm and to update the record kept by him under paragraph (3) accordingly.

(5) The record kept by the occupier of a farm under paragraph (3) shall be retained for a period of 4 years after the infected waters order in respect of the farm has been revoked.

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

4.—(1) Where a farm contains fish suspected of being infected with a disease listed in Part I of Schedule 3, as soon as possible after the farm has been made subject to an infected waters order, the control measures set out in Schedule 4 shall take effect.

(2) The control measures referred to in paragraph (1) shall continue to have effect until withdrawn by notice served by the Department on the occupier of the farm to which they relate.

(3) It shall be the duty of the occupier of any farm which is subject to the control measures referred to in paragraph (1) to take all reasonable steps to ensure that those measures are complied with.

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

5.—(1) If the fish on a farm are infected with a disease listed in Part I of Schedule 3, the Department shall, by notice served on the occupier of the farm, require the control measures set out in Schedule 5 to be taken.

(2) It shall be the duty of any person on whom a notice is served under paragraph (1) to comply with it.

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

6.—(1) Where a farm is either—

(a) a farm is an approved zone; or

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

and contains fish suspected of being infected with a disease listed in Part II of Schedule 3, as soon as possible after the farm has been made subject to an infected waters order, the control measures set out in Schedule 4 shall take effect in relation to the farm.

(2) The control measures referred to in paragraph (1) shall continue to have effect until withdrawn by notice served by the Department on the occupier of the farm to which they relate.

(3) It shall be the duty of the occupier of any farm which is subject to the control measures referred to in paragraph (1) to take all reasonable steps to ensure that those measures are complied with.

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

7.—(1) If the fish on a farm, which is either—

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

are infected with a disease listed in Part II of Schedule 3, the Department shall, by notice served on the occupier of the farm, require the control measures set out in Schedule 5 to be taken.

(2) It shall be the duty of any person on whom a notice is served under paragraph (1) to comply with it.

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

8.—(1) Where a farm—

- (a) is not an approved farm,
- (b) is not in an approved zone, and
- (c) contains fish suspected of being infected with a disease listed in Part II of Schedule 3,

as soon as possible after the farm has been made subject to an infected waters order, the control measures set out in paragraph (2) shall take effect in relation to that farm.

(2) A person shall not remove any live fish, eggs or gametes from the farm concerned unless the live fish, eggs or gametes

- (a) are to be sent to another farm infected with the same disease; or
- (b) in the case of live fish, are to be sent for slaughter for human consumption,

and that person has the authorisation of the Department therefor.

(3) The control measures set out in paragraph (2) shall continue to have effect in relation to a farm until such time as the infected waters order to which the farm is subject is revoked.

(4) It shall be the duty of the occupier of any farm which is subject to the control measures set out in paragraph (2) to take all reasonable steps to ensure that they are complied with.

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

9.—(1) Where in any area—

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

and the area concerned is declared to be an infected area by an infected waters order, the control measures set out in paragraph (2) shall take effect in relation to that area ("the infected area").

(2) A person shall not—

- (a) bring on to or take from the infected area any equipment, material or substances liable to transmit disease; or
 - (b) enter into or exit from the infected area; or
 - (c) bring a vehicle on to or take a vehicle from the infected area,
- without the authorisation of the Department.

(3) It shall be the duty of the occupier of the land or waters within the infected area to—

- (a) take such measures as may be specified by notice served on him by the Department to disinfect the entrances to and exits from the infected area; and
- (b) take reasonable steps to ensure that the control measures set out in paragraph (2) are complied with.

Prohibition on vaccination against disease

10.—(1) A person shall not vaccinate any fish or cause any fish to be vaccinated against any disease listed in Part I of Schedule 3.

(2) A person shall not vaccinate any fish or cause any fish to be vaccinated against any of the diseases listed in Part II of Schedule 3 where the fish are—

- (a) in an approved zone; or
- (b) in an approved farm which is not in an approved zone; or
- (c) in a zone or farm in respect of which the procedures to obtain approved status under Directive 91/67/EEC have been initiated.

Powers of an inspector

11.—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter any land or premises for the purpose of ascertaining whether there is or has been on the land or premises any contravention of these Regulations.

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

- (a) carry out inspections of farms;
- (b) take samples (and, if necessary, send the samples for laboratory testing);
- (c) examine relevant documentary or data processing material.

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

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

Failure to comply with control measures

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

person on whom the duty to comply, or to ensure compliance, with the control measures was imposed.

Obstruction

13.—(1) A person shall not—

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

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

Offences and penalties

14.—(1) A person contravening any provision of these Regulations shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on

G. Lavery

Assistant Secretary

18th January 1996.

SCHEDULE 1

Regulation 2(1)

Amendments

1. Council Directive 90/667/EEC (O.J. No. L363, 27.12.90, p. 51) has been amended by, and must be read subject to: Council Directive 92/118/EEC (O.J. L62, 15.3.93, p. 49).

2. Council Directive 91/67/EEC (O.J. No. L46, 19.2.91, p. 1) has been amended by, and must be read subject to: Council Directive 93/54/EEC (O.J. L175, 19.7.93, p. 34).

SCHEDULE 2

Regulation 3

Information to be Collected in the Official Census

In relation to each farm the official census shall contain the information set out below—

- (a) species and categories of fish at the farm;
- (b) for each species and category of fish at the farm:—
 - (i) the number of dead fish;

- (ii) the number of infected fish;
- (iii) the number of fish suspected of being infected;
- (iv) the number of contaminated fish;
- (c) the identity of the disease with which the fish at the farm are infected or suspected of being infected.

SCHEDULE 3

Regulations 2, 4, 5 and 6

List of Diseases

Part I

1. Infectious Salmon Anaemia (ISA).Part II
1. Infectious haematopoietic necrosis (IHN).
2. Viral haemorrhagic septicaemia (VHS).

SCHEDULE 4

Regulations 4 and 6

Control Measures to be Taken until Suspicion of Disease is Confirmed

1. A person shall not—
 - (a) bring on to or remove from the farm at which the outbreak of disease is suspected any fish whether alive or dead, eggs or gametes;
 - (b) dispose of any dead fish or their offal at that farm except under the supervision of the Department;
 - (c) bring on to or take from that farm any equipment, material or substances liable to transmit disease;
 - (d) enter on to or exit from that farm;
 - (e) bring a vehicle on to or take a vehicle from that farm;
 - (f) remove any fish, whether alive or dead, eggs or gametes from any other farm which is—
 - (i) in the same water catchment area or coastal area as the farm at which the outbreak of disease is suspected, and
 - (ii) whose owners or keepers have been notified that their farm is under surveillance for disease;without the written authorisation of the Department to do so.
2. The occupier of the farm at which the outbreak of disease is suspected shall disinfect the entrances to and exits from the farm in such manner as may be specified by the Department.

SCHEDULE 5

Regulations 5 and 7

Control Measures to be Taken when Presence of Disease is Confirmed

The occupier of the farm, in compliance with a notice served on him by the Department under regulation 5 or regulation 7, shall—

- (a) immediately remove all fish from the farm;
- (b) where the farm is an inland farm, drain, clean and disinfect all pools;
- (c) kill and destroy live fish showing clinical signs of disease and destroy all eggs, gametes, and dead fish, under the supervision of the Department and in accordance with the provisions of Directive 90/667/EEC relating to the processing or disposal of high-risk material;
- (d)
 - (i) kill and destroy all other live fish, under the supervision of the Department and in accordance with the provisions of Directive 90/667/EEC; or
 - (ii) slaughter all other live fish, for marketing or processing for human consumption, under the supervision of the Department, but only if the fish have reached commercial size;
- (e) clean and disinfect or destroy equipment, material or substances liable to be contaminated with the disease pathogen, under the supervision of the Department; and
- (f) restock the farm with fish or eggs only after the Department so authorises by notice served on him.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement in respect of Northern Ireland Council Directive 93/53/EEC (O.J. No. L175, 19.7.93, p. 23) introducing minimum Community measures for the control of certain fish diseases, to the extent that it is not implemented by existing legislation.

The Regulations—

- (a) require that an official census be conducted and a record kept, and updated, of the fish populations on farms which are suspected of being infected with fish diseases (regulation 3 and Schedule 2);
- (b) set out the control measures to be taken when the presence of a disease listed in Part I of Schedule 3 is suspected on a farm (regulation 4 and Schedule 4);
- (c) set out the control measures to be taken when the presence of a disease listed in Part I of Schedule 3 is confirmed on a farm (regulation 5 and Schedule 5);
- (d) set out the control measures to be taken when the presence of a disease listed in Part II of Schedule 3 is suspected in an approved zone or on an approved farm (i.e., a zone or farm which has obtained approved status under Council Directive 91/67/EEC (O.J. No. L46, 19.2.91, p. 1) concerning the animal health conditions governing the placing on the market of aquaculture animals and products) in a non-approved zone (regulation 6 and Schedule 4);
- (e) set out the control measures to be taken when the presence of a disease listed in Part II of Schedule 3 is confirmed in an approved zone or on an approved farm in a non-approved zone (regulation 7 and Schedule 5);
- (f) set out the control measures to be taken when a disease listed in Part II of Schedule 3 is suspected at a non-approved farm in a non-approved zone (regulation 8);
- (g) set out the control measures to be taken when a disease listed in Schedule 3 is suspected or confirmed amongst fish in the wild (regulation 9);
- (h) prohibit the vaccination of fish against diseases (regulation 10);
- (i) provide powers for the enforcement of these Regulations including powers of entry (regulations 11 to 13);

(j) provide that contravention of any provisions of the Regulations or any notice served under them shall be punishable by a fine not exceeding level 5 on the standard scale (£5,000) (regulation 14).

Notes:

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

[2] 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3), S.R. 1984 No. 253 and S.I. [1994/2795](#) (N.I. 15) [back](#)

[3] O.J. No. L363, 27.12.90, p. 51 as read with the provisions listed in Schedule 1 [back](#)

[4] O.J. No. L46, 19.2.91, p. 1 as read with the provisions listed in Schedule 1 [back](#)

[5] 1967 c. 7 [back](#)

[6] S.R. 1993 No. 306 as amended by S.R. 1995 No. 174 [back](#)

[7] 1966 c. 17 [back](#)

[8] 1954 c. 33 (N.I.) [back](#)