
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 330

RIVER

SALMON AND FRESHWATER FISHERIES

SEA FISHERIES

**The Diseases of Fish (Control)
Amendment (Scotland) Regulations 2000**

Made - - - - 21st September 2000
*Laid before the Scottish
Parliament* - - - - 25th September 2000
Coming into force - - 1st November 2000

The Scottish Ministers, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Diseases of Fish (Control) Amendment (Scotland) Regulations 2000 and come into force on 1st November 2000.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations “the principal Regulations” means the Diseases of Fish (Control) Regulations 1994⁽²⁾.

Amendment of the Principal Regulations

3. In the principal Regulations for “the Fish Health Regulations 1992”, in each place where it appears, there is substituted “the Fish Health Regulations 1997”⁽³⁾.

(1) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 Schedule 8, Paragraph 15. The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I.1994/1447.

(3) S.I. 1997/1881.

4. In regulation 2 (interpretation) of the principal Regulations–
- (a) in paragraph (1)–
- (i) there is inserted after the definition of “Directive 91/67/EEC”–
- ““Directive 93/53/EC” means Council Directive of 24 June 1993 introducing minimum Community measures for the control of certain fish diseases(4) which has been amended by the Act of Accession of Austria, Finland and Sweden(5) and by Council Directive 2000/27/EC of 2 May 2000 amending Directive 93/53/EC introducing minimum Community measures for the control of certain fish diseases(6);”;
- (ii) for the definition of “Minister” there is substituted–
- ““Minister” means the Scottish Ministers.”; and
- (b) in paragraph (5) after “notices” there is inserted “or directions”.
5. Regulation 5 (control measures if presence of a disease in Part 1 of Schedule 3 is confirmed on a farm) of the principal Regulations is re-numbered regulation 5(1) and–
- (a) for paragraph (1)(a) of that regulation so re-numbered there is substituted–
- “(a) the withdrawal of all fish from the waters of the farm in accordance with the scheme established by the Minister pursuant to Article 6 of Directive 93/53/EC;
- (aa) the keeping of a record of the daily mortality rate of the fish in each cage, tank or pond on the farm as a percentage of the fish in that cage, tank or, as the case may be, pond;”;
- (b) at the end of that regulation so re-numbered there is added–
- “(2) A notice served on the occupier in accordance with this regulation shall be accompanied by a copy of the scheme referred to in paragraph (1)(a) and such directions as to the process of withdrawal and the submission of records as the Minister may consider appropriate having regard to the terms of that scheme.
- (3) Following service of a notice in accordance with this regulation the Minister may issue such directions or , as the case may be, further directions as to the process of withdrawal and the submission of records as the Minister may consider appropriate having regard to the terms of the scheme referred to in paragraph 1 (a).”.
6. In regulation 10(1) (prohibition on vaccination against disease) of the principal Regulations, after “Schedule 3” there is inserted “without the prior written authorisation of the Minister”.
7. In regulation 12 (failure to comply with a notice) of the principal Regulations after “notice” in each place where it occurs there is inserted “or directions”.
8. In regulation 15 (offences and penalties) of the principal Regulations after “any notice” there is inserted “or directions”.

Savings and transitional provisions

9.—(1) The amendments made by these Regulations to regulation 5 of the principal Regulations apply only to a notice served under that regulation on or after the date on which the scheme established by the Minister pursuant to Article 6 of the Directive 93/53/EC is approved by the Commission in accordance with the procedure laid down in Article 19(2) of that Directive and until that date that regulation shall continue to have effect as if those amendments had not been made.

(4) O.J. L 175, 19.7.1993, p.23.

(5) 194 N.

(6) O.J. L 114, 13.5.2000, p.28.

(2) Where in respect of a notice served under regulation 5 of the principal Regulations prior to the date mentioned in paragraph (1) any fish have for any reason still to be withdrawn from the waters of the farm on that date—

- (a) the amendments made by these Regulations to the principal Regulations shall apply in respect of that notice, in so far as it relates to any such fish, as if it was a notice served on or after that date in accordance with regulation 5 of the principal Regulations as amended by these Regulations; and
- (b) the Minister shall immediately serve an amended notice accompanied by a copy of the scheme and such directions as to the process of withdrawal and the submission of records as the Minister may consider appropriate.

St Andrew's House,
Edinburgh
21st September 2000

JOHN HOME ROBERTSON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Diseases of Fish (Control) Regulations 1994 (“the principal Regulations”) in implement of Council Directive [2000/27/EC](#) (O.J. No. L 114, 13.5.2000, p.28. (“the Directive”) amending Council Directive [93/53/EEC](#) (O.J. No. L 175, 19.7.1993, p.23.) introducing minimum Community measures for the control of certain fish diseases. The Directive amends Directive [93/53/EEC](#) to provide for a scheme to be established in respect of the withdrawal of fish confirmed as having a disease referred to in Annex A, list I to Directive [91/67/EEC](#) (O.J. No. L 46, 19.2.1991, p.1.) and for authorisation to be given for the vaccination of fish against such disease . (The only disease referred to in that list is infectious salmon anaemia (ISA)).

These Regulations—

- (a) allow fish on a farm which has been confirmed as having ISA to be withdrawn in accordance with the scheme (regulation 5);
- (b) allow the vaccination of fish against ISA if so authorised by the Minister (regulation 6);
- (c) make consequential amendments (regulations 4(a)(i) and (b), 7 and 8).

The provisions allowing fish on a farm which has been confirmed as having ISA to be withdrawn in accordance with the scheme apply from the date on which the scheme is approved by the Commission in accordance with procedure laid down in Article 19(2) of Directive [93/53/EC](#) (regulation 9).

These Regulations also amend the principal Regulations to take account of the coming into force of the Fish Health Regulations 1997, which revoked the Fish Health Regulations 1992, (regulation 3) and the transfer of functions in the principal Regulations to Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (regulation 4(a)(ii)).