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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 85**

**RIVER  
FISH FARMING**

**The Aquatic Animal Health (Scotland) Regulations 2009**

*Made - - - - 5th March 2009*  
*Laid before the Scottish*  
*Parliament - - - - 5th March 2009*  
*Coming into force in accordance with regulation 1*

The Scottish Ministers make these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A<sup>M1</sup> of Schedule 2 to, the European Communities Act 1972<sup>M2</sup>. These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for any references to the following Community instruments to be construed as a reference to those instruments as amended from time to time:

- (a) Commission Decision [2004/453/EC](#)<sup>M3</sup> on implementing Council Directive [91/67/EEC](#) as regards measures against certain diseases in aquaculture animals;
- (b) Council Directive [2006/88/EC](#)<sup>M4</sup> on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals; and
- (c) Commission Regulation (EC) No. [1251/2008](#)<sup>M5</sup> 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.

**Marginal Citations**

- M1** Paragraph 1A of Schedule 2 was inserted by section 28 of the [Legislative and Regulatory Reform Act 2006](#) (c. 51).
- M2** 1972 c. 68. Section 2(2) was amended by the [Scotland Act 1998](#) (c. 46) Schedule 8, paragraph 15(3) and section 27 of the Legislative and Regulatory Reform Act 2006. The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the [Scotland Act 1998](#) (c. 46).
- M3** O.J. No. L 156, 30.4.2004, p.5, corrected by O.J. No. L 202, 7.6.2004, p.4 which substitutes new text for the whole of Commission Decision 2004/453/EC.
- M4** O.J. No. L 328, 24.11.2006, p.14.

*Status: Point in time view as at 14/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)*

M5 O.J. No. L 337, 16.12.2008, p.41.

## PART 1

### GENERAL

#### Citation, commencement and extent

1.—(1) These Regulations, which implement Directive [2006/88/EC](#), may be cited as the Aquatic Animal Health (Scotland) Regulations 2009.

(2) These Regulations come into force—

- (a) for the purposes of regulation 5(1), on 1st May 2009;
- (b) for the purposes of regulation 12(1), on 1st August 2009; and
- (c) for all other purposes, on 27th March 2009.

(3) These Regulations extend to Scotland only.

#### Application

2.— These Regulations do not apply to—

- (a) any ornamental aquatic animal reared in a non-commercial aquarium;
- (b) 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);
- (c) any aquatic animal caught for the purpose of production of fishmeal, fish feed, fish oil or any similar product.

#### Interpretation

3.—(1) In these Regulations—

“the competent authority” means the Scottish Ministers;

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“Decision [946/2008/EC](#)” means Commission Decision [2008/946/EC](#)<sup>M6</sup> on implementing Council Directive [2006/88/EC](#) as regards requirements for quarantine of aquaculture animals;

“Directive [2006/88/EC](#)” means Council Directive [2006/88/EC](#)<sup>M7</sup> on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals, as amended from time to time;

“inspector” means any person authorised by the competent authority 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 of Directive [2006/88/EC](#); or
- (b) a disease listed in the first column of Schedule 1 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, a processing establishment, a non-commercial installation or a put and take fishery, means any

person who is responsible for the management of that business, establishment, installation or fishery;

[<sup>F2</sup>“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 853/2004 and which may, when granted an authorisation under regulation 7, slaughter aquaculture animals for disease control purposes in accordance with Article 33 of Chapter V of Directive 2006/88/EC; which aquaculture animals—

(a) are the subject of a notice; or

(b) come from an area, farm or mollusc farming area which is the subject of a notice, under Part 4 of these Regulations, or of any provision in any Regulations made in relation to England, Wales or Northern Ireland which has equivalent effect to that Part; and]

[<sup>F3</sup>“Regulation (EC) No 853/2004” means Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p.55), as amended from time to time;]

“Regulation (EC) No. 1251/2008” means Commission Regulation (EC) No. 1251/2008<sup>M8</sup> 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, as amended from time to time;

“Scotland” includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland; and

“specialist transport business” means a business or undertaking which wholly or mainly transports live aquaculture animals in means 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 18(5)) has the meaning it bears in that Directive.

(3) Schedule 1 (list of diseases) has effect.

#### Textual Amendments

- F1** Words in reg. 3(1) omitted (27.5.2011) by virtue of [The Aquatic Animal Health \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/259\)](#), regs. 1, **2(2)**
- F2** Words in reg. 3(1) substituted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(2)(a)**
- F3** Words in reg. 3(1) inserted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(2)(b)**

#### Marginal Citations

- M6** O.J. No. L 337, 16.12.2008, p.94.
- M7** O.J. No. L 328, 24.11.2006, p.14.
- M8** O.J. No. L 337, 16.12.2008, p.41.

## PART 2

### AUTHORISATION AND REGISTRATION REQUIREMENTS

#### Application of Part 2

4. This Part does not apply where any ornamental aquatic animal is kept in any pet shop, garden centre, garden pond, commercial aquarium, or with any wholesaler—

- (a) without any direct contact with natural waters; or
- (b) which is equipped with an effluent treatment system which, in the opinion of the competent authority, reduces the risk of transmitting diseases to natural waters to an acceptable level.

#### Authorisation

5.—(1) Subject to regulation 14, it is an offence to operate an aquaculture production business or a processing establishment unless the business or establishment is authorised by the competent authority.

(2) The competent authority 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.

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

(4) The requirement for a non-commercial installation or a put and take fishery to be authorised under paragraph (1) only applies where the competent authority—

- (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.

(5) Where the operator is served with a notice under paragraph (4)(b), the operator must apply for authorisation under regulation 8(1) within 28 days of the service.

(6) Where the operator so applies, 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 14(3).

#### Authorisation conditions for aquaculture production businesses

6.—(1) The competent authority 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 business must—

- (a) keep a record, in such form and manner as the competent authority may specify, of—
  - (i) the movement of any aquaculture animal or any aquaculture animal product into or out of the area in respect of which the business operates;
  - (ii) the number of any aquaculture animals that have died in each epidemiological unit within that area;
  - (iii) the results of any surveillance carried out by the business; and
  - (iv) the results of any surveillance carried out by the competent authority which have been notified to the business;
- (b) follow good biosecurity practice;
- (c) comply with any surveillance requirement imposed by the competent authority; and

- (d) have a system in place which enables the operator to demonstrate to the competent authority that the requirements of subparagraphs (a) to (c) are being met.

#### **Authorisation conditions for processing establishments**

7.—(1) The competent authority may grant an authorisation to a processing establishment, subject to such conditions as it considers appropriate, where it is satisfied that the operation of the establishment will not lead to an unacceptable risk of spreading of disease.

- (2) It is a condition of an authorisation that the operator must—
  - (a) keep a record, in such form and manner as the competent authority may specify, of the movement of any aquaculture animal or any aquaculture animal product into or out of the premises of the establishment;
  - (b) follow good biosecurity practice; and
  - (c) have a system in place which will enable the operator to demonstrate to the competent authority that the requirements of subparagraphs (a) and (b) are being met.

#### **Application for an authorisation**

8.—(1) An application for an authorisation must be in such form and contain such information as the competent authority may reasonably require.

(2) The competent authority must serve an applicant with a written notice of the result of the application within 90 days of receiving it.

- (3) Where the competent authority grants the authorisation, it must notify—
  - (a) the duration of the authorisation;
  - (b) any condition to which it is subject; and
  - (c) an authorisation number.

(4) Where the competent authority 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 appeal under regulation 40.

(5) It is an offence for a person to make a statement in an application that is false, and which that person knows or suspects is false.

#### **Amendment of an authorisation**

9.—(1) The competent authority may amend any authorisation, including any condition to which it is subject.

- (2) The amendment may be made—
  - (a) on the initiative of the competent authority; 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 competent authority may reasonably require.

- (4) The competent authority must give written notice to 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 appeal under regulation 40.

### Suspension of an authorisation

**10.**—(1) The competent authority may suspend 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 under 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 appeal under regulation 40.

### Revocation of an authorisation

**11.**—(1) The competent authority 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 under 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 appeal under regulation 40.

### Registration

**12.**—(1) It is an offence to operate a non-commercial [<sup>F4</sup>installation], a put and take fishery, or a specialist transport business unless it is registered by the competent authority.

(2) An application for registration must be in such form and contain such information as the competent authority may reasonably require.

(3) On receipt of the information, the competent authority must—

- (a) undertake the registration; and
- (b) serve the operator with a written notice of a registration number.

(4) An operator must notify the competent authority in writing of any change in the information provided under paragraph (2) within 30 days of the change.

(5) It is an offence to fail to comply with paragraph (4).

(6) It is an offence for a person to provide information to the competent authority that is false, and which that person knows or suspects is false.

(7) This regulation does not apply where a non-commercial [<sup>F5</sup>installation] or a put and take fishery is required to be authorised by virtue of regulation 5(1) and (4).

#### Textual Amendments

**F4** Word in reg. 12(1) substituted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(3)**

**F5** Word in reg. 12(7) substituted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(3)**

## **Public record of aquaculture production businesses and processing establishments**

- 13.**—(1) The competent authority must establish and maintain a record of—
- (a) any aquaculture production business authorised under regulation 6; and
  - (b) any processing establishment authorised under regulation 7.
- (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 6.
- (3) The record must contain the information set out in Part II of that Annex for an establishment authorised under regulation 7.
- (4) The record must be publicly available for inspection free of charge at all reasonable times and at such place as determined by the competent authority.
- (5) The competent authority must make arrangements for the provision of a copy of an entry in the record to any person on request.
- (6) These arrangements may include payment of a reasonable fee by the person making the request.

## **Transitional provision**

- 14.**—(1) This regulation applies where—
- (a) a person operates an aquaculture production business or a processing establishment on 27th March 2009; and
  - (b) makes an application for an authorisation under regulation 8 before 1st May 2009.
- (2) The operator is to be treated as having, as from 1st May 2009, an interim authorisation to carry on the activity to which the application relates until the interim authorisation lapses in accordance with paragraph (3).
- (3) The interim authorisation lapses on the earliest of the following dates—
- (a) when the application is withdrawn;
  - (b) when the competent authority grants an authorisation under regulation 6 or 7;
  - (c) where the competent authority refuses to grant an authorisation under regulation 6 or 7 and the applicant does not appeal, on the date on which the right of appeal lapses under regulation 40;
  - (d) where the competent authority refuses to grant an authorisation under regulation 6 or 7 and the applicant does appeal, on the date on which the appeal is finally decided.

# **PART 3**

## **PLACING ON THE MARKET**

### **Application of Part 3**

- 15.**—(1) This Part does not apply in respect of any person who—
- (a) places on the market for scientific purposes any aquaculture animal or aquaculture animal product; and
  - (b) has obtained the prior written consent of the competent authority.
- (2) The competent authority may, where it is satisfied that to do so will not lead to an unacceptable risk of spreading disease, grant consent for the purposes of paragraph (1)(b) subject to such conditions as it considers appropriate.

*Status: Point in time view as at 14/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)*

## General health requirements

16.—(1) It is an offence to place 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 where—

- (a) the animal comes from a part of the farm or mollusc farming area, which, in the opinion of the competent authority, is 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 competent authority.

(3) It is an offence to release 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 competent authority.

(4) It is an offence to contravene 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 and products thereof 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.

## Certification requirements

17.—<sup>F6</sup>(1) It is an offence to introduce any aquaculture animal or any aquaculture animal product into Scotland where the animal or product is required to be accompanied by an animal health certificate in terms of Chapter III or IV of Regulation (EC) No. 1251/2008 unless it is accompanied by such a certificate completed in accordance with the relevant model specified in that Chapter.

(2) A person is guilty of an offence if, for the purpose of procuring the issue of an animal health certificate under Chapter III of Regulation (EC) No. 1251/2008, that person—

- (a) makes a statement which 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 animal product into Scotland includes the introduction of any aquaculture animal or product into any zone or compartment within Scotland from any other zone or compartment within Scotland.

### Textual Amendments

**F6** Reg. 17(1)(2) substituted (27.5.2011) by [The Aquatic Animal Health \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/259\)](#), regs. 1, **2(3)**

## Additional certification provisions

18.—(1) Where any aquaculture animal, which 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 Scotland 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 17(1), to be treated as though it has, in relation to that disease, a Category I disease-free health status under Part A of Annex III to that Directive.

(2) Where any wild aquatic animal, which is susceptible to a listed disease or is a vector for that disease, is introduced into Scotland with the intention of being released into the wild or into a put and take fishery, the animal is, for the purposes of regulations 17(1) and 18(1), to be treated as though it is an aquaculture animal introduced with the intention of being released into the wild or into a put and take fishery.

(3) Where any wild aquatic animal, which is susceptible to a listed disease or is a vector for that disease, is introduced into Scotland for further processing before human consumption, the animal is, for the purpose of regulation 17(1), to be treated as though it is 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 which can survive in the natural aquatic environment in Scotland 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 second column of Schedule 1 to these Regulations opposite the reference to the disease in the first column 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 [\(EC\) 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 paragraphs (1) to (3) any reference to the introduction of any animal into Scotland includes the introduction of the animal into any zone or compartment within Scotland from any other zone or compartment within Scotland.

### **Disease prevention requirements in respect of transport**

**19.**—(1) It is an offence to transport any aquaculture animal in a manner which does not fulfil any of the requirements in paragraph (2).

(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 competent authority has approved; and
- (d) the conditions of transport must minimise the risk of spreading disease to–

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- (i) the animal being transported;
  - (ii) any aquatic animal at any place of transit;
  - (iii) any aquatic animal at the place of destination.
- (3) Where a person imports from a third country any aquaculture animal which is intended for quarantine the animal must be transported directly from the border [<sup>F7</sup>control] post to a quarantine facility.
- (4) The operator of a quarantine facility must not release an aquaculture animal from a quarantine facility without the prior written consent of the competent authority.
- (5) In paragraphs (3) and (4)–
- [<sup>F8</sup>(a) “border control post” has the meaning given by Article 3(38) of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products;]
  - (b) “quarantine facility” has the meaning given in Article 2(1) of Commission Decision [2008/946/EC](#)<sup>M9</sup> on implementing Council Directive [2006/88/EC](#) as regards requirements for quarantine of aquaculture animals.
- (6) It is an offence not to comply with paragraph (3) or (4).

#### Textual Amendments

- F7** Word in [reg. 19\(3\)](#) substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **23(a)**
- F8** [Reg. 19\(5\)\(a\)](#) substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **23(b)**

#### Marginal Citations

- M9** O.J. No. L 337, 16.12.2008, p.94.

### Recording of information in respect of transport

**20.**—(1) It is an offence for a person who transports any aquaculture animal to fail to keep a record of any of the information referred to in paragraph (2).

(2) The information is–

- (a) the number of animals that die in the course of transport;
- (b) all facilities operating under an authorisation or registration granted under Part 2 and which are visited in the course of the transport;
- (c) any water exchange in the course of the transport;
- (d) the source of any water introduced into the means of transport;
- (e) the location at which any water from the means of transport is discharged.

(3) The competent authority may specify the form and manner in which the information referred to in paragraph (2) must be recorded.

(4) It is a defence for a person charged with an offence in relation to paragraph (2)(a) to show that it was not practicable to keep such a record.

### **Exemption for transport in small containers**

21. Regulations 19(1) and (2) and 20 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 documents its contents, place of origin, any place of transit and its place of destination.

## **PART 4**

### **NOTIFICATION AND CONTROL OF DISEASE OUTBREAKS**

#### **Interpretation of Part 4**

22. In this Part—

“confirmed designation” means a designation made by the competent authority under regulation 28;

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

“initial designation” means a designation made by the competent authority under regulation 24;

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

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

23.—(1) A relevant person is guilty of 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 competent authority of that knowledge or suspicion.

(2) A relevant person is guilty of 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 competent authority or a veterinarian of that knowledge or suspicion.

(3) In this regulation “relevant person” means—

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

#### **Initial designation**

24.—(1) Where the competent authority suspects that a listed disease or an emerging disease is present, or may become present, in aquatic animals in Scotland, it must designate such area as it considers appropriate to prevent or limit the spread of that disease.

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- (2) Where the competent authority has made an initial designation, it must—
  - (a) take samples of any aquatic animal or water which it suspects is infected;
  - (b) examine the samples in a laboratory designated by the authority under Article 57 of Directive 2006/88/EC;
  - (c) undertake an epizootic investigation in accordance with Article 29 of Directive 2006/88.
- (3) A person commits an offence if, without the prior written consent of the competent authority, 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.

### **Contents and publication of an initial designation**

- 25.**—(1) An initial designation must—
- (a) be in the form of a written notice;
  - (b) describe the area which is the subject of the designation;
  - (c) describe the circumstances in which a person commits an offence under regulation 24(3);
  - (d) make reference to any consent given by the competent authority under regulation 24(3).
- (2) An initial designation may require 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 competent authority 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) It is an offence not to comply with any requirement imposed under paragraph (2).

### **Actions by an inspector in respect of an initial designation**

- 26.**—(1) This regulation applies where the competent authority has made an initial designation.
- (2) An inspector may—
- (a) take samples of any aquatic animal or water in the initial designation area;
  - (b) dispose of any such animal.
- (3) An inspector may by written notice direct a person to—
- (a) take steps to secure the disposal of any dead 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 the initial designation 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) Where 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) It is an offence not to comply with a requirement imposed under paragraph (3) or (4).

### Withdrawal of an initial designation

- 27.—<sup>[F9]</sup>(1) The competent authority must withdraw an initial designation when—
- (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 the following regulation.

<sup>[F10]</sup>(2) Where the initial designation area comprises the whole of Scotland, the competent authority may only withdraw the initial designation in the circumstances described in paragraph (1) (a) or (b) in respect of that part or those parts of Scotland where the suspected disease is not present or likely to become present, or which has or have been designated under the following regulation.]

#### Textual Amendments

- F9** Reg. 27(1); reg. 27 renumbered as reg. 27(1) (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(4)**
- F10** Reg. 27(2) inserted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(4)**

### Confirmed designation

28.—(1) Where the competent authority has confirmed that a listed disease or an emerging disease is present in aquatic animals in Scotland 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 competent authority, 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.

### Contents and publication of a confirmed designation

- 29.—(1) A confirmed designation must—
- (a) be in the form of a written notice;
  - (b) describe the area which is the subject of the designation;
  - (c) describe the circumstances in which a person commits an offence under regulation 28(2);
  - (d) make reference to any consent given by the competent authority under regulation 28(2).
- (2) A confirmed designation may require 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.

*Status: Point in time view as at 14/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)*

- (3) The competent authority 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) It is an offence not to comply with any requirement imposed under paragraph (2).

### **Actions by an inspector in respect of a confirmed designation**

**30.**—(1) This regulation applies where the competent authority 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 or kill and 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 or killing and 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) It is an offence not to comply with a requirement imposed under paragraph (3) or (4).

### **Withdrawal of a confirmed designation**

**31.**—<sup>[F11]</sup>(1) The competent authority 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.

<sup>[F12]</sup>(2) Where the confirmed designation area comprises the whole of Scotland, the competent authority may only withdraw the confirmed designation in the circumstances described in paragraph (1) in respect of that part or those parts of Scotland where the disease is not present.]

#### **Textual Amendments**

- F11** Reg. 31(1): reg. 31 renumbered as reg. 31(1) (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(5)**

**F12** Reg. 31(2) inserted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(5)**

## [<sup>F13</sup>PART 4A

### PROVISION OF INFORMATION, RECORD KEEPING AND NOTIFICATIONS

#### Textual Amendments

**F13** Pt. 4A inserted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(6)**

#### Interpretation of Part 4A and Schedules 1A and 1B

**31A.**—(1) In this Part and in Schedules 1A and 1B—

“fish” does not include shellfish but otherwise means fish of any kind;

“fish farm” means any place used for the purposes of fish farming;

“fish farming” means the keeping of fish with a view to their sale or to their transfer to other waters; but only where the business involved in that activity is authorised as an aquaculture production business under regulation 6;

“shellfish” includes crustaceans and molluscs of any kind and any brood, ware, half-ware, spat or spawn of shellfish;

“shellfish farm” means any place used for the purposes of shellfish farming;

“shellfish farming” means the cultivation or propagation of shellfish with a view to their sale or transfer to other waters or land; but only where such activity is authorised as an aquaculture production business under regulation 6;

“year” means a period of 12 months ending on 30th November.

(2) Any reference to fish or shellfish, other than an express reference to a dead fish or dead shellfish, is a reference to a live fish or live shellfish.

#### Provision of information

**31B.**—(1) Not later than 31st December each year, the operator of—

(a) an aquaculture production business authorised under regulation 6; or

(b) a processing establishment authorised under regulation 7,

must provide the Scottish Ministers with the information specified in paragraph (2) in respect of the previous year.

(2) The information specified for the purposes of paragraph (1) is—

(a) in the case of an aquaculture production business comprising a—

(i) fish farm, the information specified in Part 1 of Schedule 1A in respect of each site at which fish are farmed in the course of the business;

(ii) shellfish farm, the information specified in Part 2 of Schedule 1A in respect of each site at which shellfish are farmed in the course of the business; and

(b) in the case of a processing establishment, the information specified in Part 3 of Schedule 1A in respect of each site at which the business operates.

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**Status:** Point in time view as at 14/12/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)

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## Records

- 31C.**—(1) The operator of a business mentioned in regulation 31B(1) must compile a record—
- (a) in the case of an aquaculture production business comprising a—
    - (i) fish farm, of the particulars specified in Part 1 of Schedule 1B in respect of each site at which fish are farmed in the course of the business;
    - (ii) shellfish farm, of the particulars specified in Part 2 of Schedule 1B in respect of each site at which shellfish are farmed in the course of the business; and
  - (b) in the case of a processing establishment, of the particulars specified in Part 3 of Schedule 1B in respect of each site at which the business operates.
- (2) The particulars referred to in paragraph (1) must be entered in the record within 24 hours of the movement or observation, as the case may be, the particulars relate to.
- (3) The record compiled under paragraph (1) must be retained by the operator of the business the record relates to for not less than 4 years from the date of the last entry.

## Escapes from fish farms

- 31D.**—(1) The operator of an aquaculture production business comprising a fish farm authorised under regulation 6 must immediately notify the Scottish Ministers of the circumstances on, or in the vicinity of, the fish farm which—
- (a) are believed by that person to have caused an escape of fish; or
  - (b) gave rise to a significant risk of an escape of fish.
- (2) A notification under this regulation is referred to in this Part and in Schedule 1C as an “initial notification” and must contain the information specified in the form in Schedule 1C.

## Recovery of fish

- 31E.**—(1) No later than 28 days after the day a person gives an initial notification under regulation 31D(1)(a), that person must notify the Scottish Ministers of—
- (a) the number of fish that are believed by that person to have escaped from the fish farm;
  - (b) the details of any steps taken by that person to recover the fish;
  - (c) the number of fish recovered following the escape; and
  - (d) the details of the follow up action taken by that person following the escape.
- (2) A notification under this regulation is referred to in Schedule 1D as a “final notification” and must contain the information specified in the form in Schedule 1D.]

# PART 5

## ADDITIONAL PROVISION IN RELATION TO *GYRODACTYLUS SALARIS*

### Additional powers in relation to *Gyrodactylus salaricus*

- 32.**—(1) Where the competent authority has made an initial designation under regulation 24(1) or a confirmed designation under regulation 28(1) in relation to *Gyrodactylus salaricus*, it may exercise the powers in paragraphs (2) and (3).
- (2) The competent authority may, where it considers it appropriate to do so, arrange for—



- (a) the creation and maintenance of barriers to the movement of any aquatic animal in any inland waters in Scotland—
    - (i) to prevent the spread of *Gyrodactylus salaris*; and
    - (ii) to facilitate treatment with chemical agents with a view to eradicating *Gyrodactylus salaris* from the waters concerned;
  - (b) the treatment with chemical agents of any waters in the initial designation area or the confirmed designation area, as the case may be, with a view to eradicating *Gyrodactylus salaris* from the waters concerned; and
  - (c) the dismantling and removal of barriers created under subparagraph (a).
- (3) For the purpose of facilitating the exercise of their power under paragraph (2)(a), the competent authority may purchase land in Scotland compulsorily.

#### **Clearance of certain fish farms – *Gyrodactylus salaris***

**33.**—(1) This regulation applies where the competent authority has made an initial designation under regulation 24(1) or a confirmed designation under regulation 28(1) in relation to infection with *Gyrodactylus salaris*.

- (2) An inspector may by written notice direct a person to—
  - (a) withdraw all aquatic animals from the waters of the farm;
  - (b) drain, clean and disinfect all pools and cages in the farm;
  - (c) destroy all—
    - (i) dead aquatic animals;
    - (ii) live aquatic animals withdrawn from the farm which show clinical signs of the disease known as gyrodactylosis caused by *Gyrodactylus salaris*;
    - (iii) live aquatic animals withdrawn from the farm which show signs of the presence of *Gyrodactylus salaris*;
  - (d) clean and disinfect or destroy equipment, material or substances liable to be contaminated with *Gyrodactylus salaris*;
  - (e) obtain the prior written consent of the competent authority before repopulating the farm.
- (3) It is an offence not to comply with a requirement imposed under paragraph (2).

#### **Power to take other measures – *Gyrodactylus salaris***

**34.** The competent authority may take such other measures (including regulating entry to and exit from an initial designation area or a confirmed designation area) as it considers appropriate for the purpose of eradicating, or preventing, or limiting the spread of *Gyrodactylus salaris*.

## **PART 6**

### **ENFORCEMENT, APPEALS AND PENALTIES**

#### **Entry and inspection of land and premises**

**35.**—(1) An inspector may, on producing some 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—

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*Status: Point in time view as at 14/12/2019.*

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- (a) such persons, equipment and vehicles as the inspector considers necessary;
- (b) a representative of the European Commission acting for the purposes of Directive [2006/88/EC](#).

(3) An inspector may not enter any premises which 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.

### **Search and examination of land and premises**

**36.** Where an inspector exercises the power conferred by regulation 35, 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.

### **Production of documents**

**37.** 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.

### **Seizure of items**

**38.—(1)** This regulation applies where an inspector exercises the powers conferred by regulation 36 or 37.

(2) An inspector may—

- (a) seize, detain or remove any item which 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) shall be construed as including power to take and examine 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 37 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 competent authority thinks fit.
- (8) It is an offence not to comply with a requirement imposed by an inspector under paragraph (5).

### **Enforcement notices**

**39.**—(1) Where the competent authority considers that any person has not complied with, is not complying with, or is not likely to comply with, the conditions of an authorisation under Part 2 or a requirement under these Regulations, it may serve that person with an enforcement notice.

- (2) An enforcement notice must state—
  - (a) the steps which the relevant person must take or is prohibited from taking;
  - (b) the date by which the steps must be taken;
  - (c) the reasons for the service of the notice and for the requirements in it;
  - (d) that there is a right of appeal under regulation 40.
- (3) Where 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.

### **Appeals**

- 40.**—(1) A person may appeal to the competent authority against any of the following—
- (a) refusal to grant an authorisation under regulation 8;
  - (b) any condition to which an authorisation is subject;
  - (c) any amendment made to an authorisation under regulation 9 or any decision not to grant an amendment under that regulation;
  - (d) suspension or revocation of an authorisation under regulation 10 or 11;
  - (e) service of an enforcement notice under regulation 39.
- (2) An appellant may within 21 days beginning with the date on which the relevant event occurs, serve the competent authority with a written notice that the appellant wishes to—
- (a) appear before and be heard by an independent person appointed by the competent authority; or
  - (b) provide written representations to the competent authority.
- (3) Where an appellant gives notice under paragraph (2)(a)—
- (a) the competent authority must appoint an independent person to hear representations and specify a time limit within which representations to that person must be made;

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- (b) if the appellant so requests, the hearing must be in public;
  - (c) the person appointed must report to the competent authority; and
  - (d) if the appellant so requests, the competent authority must provide a copy of the appointed person's report to the appellant.
- (4) Where an appellant provides written representations under paragraph (2)(b)–
- (a) the competent authority must appoint an independent person to consider the representations; and
  - (b) the requirements in paragraph (3)(c) and (d) apply.
- (5) The competent authority must give the appellant written notice of its final decision and the reasons for it.

### **Obstruction**

**41.** It is an offence–

- (a) to intentionally 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) to knowingly or recklessly give false or misleading information to such person.

### **Offences by bodies corporate**

**42.**—(1) Where an offence under these Regulations committed–

- (a) by a body corporate, is shown to have been committed with the consent or connivance of, or is attributable to any neglect on the part of a person who–
  - (i) is a director, manager, secretary or other similar person of the body corporate; or
  - (ii) was purporting to act in any such capacity,
- (b) by a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of a person who–
  - (i) is a partner, or
  - (ii) was purporting to act in that capacity; or
- (c) by an unincorporated association other than a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who–
  - (i) is concerned in the management or control of the association, or
  - (ii) was purporting to act in the capacity of a person so concerned,

the individual (as well as the body corporate, Scottish partnership or, as the case may be, unincorporated association) is guilty of the offence, and is liable to be proceeded against and punished accordingly.

(2) For the purposes of this regulation, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

### **Penalties**

**43.** A person who is guilty of an offence under these Regulations is liable–

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

## PART 7

### MISCELLANEOUS

#### Vaccination

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

#### Public register of disease-free zones and compartments

45.—(1) The competent authority must establish and maintain a register of declarations made in relation to Scotland 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 competent authority.

#### Disclosure of information

46.—(1) The competent authority, any local authority, the Scottish Environmental Protection Agency and [F14Food Standards Scotland] may disclose information to each other for the purposes of these Regulations or Directive 2006/88/EC.

(2) The competent authority may disclose information to the equivalent authority in England, Wales or Northern Ireland for the purposes of these Regulations or the equivalent Regulations in England, Wales or Northern Ireland, or for the purposes of Directive 2006/88/EC.

#### Textual Amendments

F14 Words in reg. 46(1) substituted (1.4.2015) by The Food (Scotland) Act 2015 (Consequential and Transitional Provisions) Order 2015 (S.S.I. 2015/100), arts. 1(2), 2, sch. para. 21

#### Service of notices

47.—(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 7 of the Interpretation Act 1978<sup>M10</sup> (references to service by post) in its application to this regulation, the proper address of any person to whom a notice is 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—

**Status:** Point in time view as at 14/12/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)

- (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.

**Marginal Citations**

**M10** 1978 c. 30.

**Repeals, amendments and revocations**

- 48.** Schedule 2 (repeals, amendments and revocations) has effect.

St Andrew's House,  
Edinburgh

*R CUNNINGHAM*  
Authorised to sign by the Scottish Ministers

## SCHEDULE 1

Regulation 3(3)

## List of diseases

<b>Disease</b>	<b>Susceptible species</b>
Infection with <i>Gyrodactylus salaris</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> )
[ <sup>F15</sup> Ostreid herpesvirus 1 µvar (OsHV-1 µvar)]	[ <sup>F16</sup> Pacific oyster ( <i>Crassostrea gigas</i> )]

**Textual Amendments**

- F15** Words in sch. 1 inserted (27.5.2011) by [The Aquatic Animal Health \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/259\)](#), regs. 1, **2(4)(a)**
- F16** Words in sch. 1 inserted (27.5.2011) by [The Aquatic Animal Health \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/259\)](#), regs. 1, **2(4)(b)**

[<sup>F17</sup>SCHEDULE 1A

Regulation 31B(2)(a)(i)

## Information to be provided annually

**Textual Amendments**

- F17** Schs. 1A-1D inserted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(7)**

## PART 1

## Fish Farm

1. The number of, and the number of consignments of—

**Status:** Point in time view as at 14/12/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)

- (a) in the case of salmon—
  - (i) ova;
  - (ii) fry, parr or smolts; and
  - (iii) post smolts; and
- (b) in the case of each species of fish, other than salmon—
  - (i) ova;
  - (ii) fish weighing up to and equal to 5 grams; and
  - (iii) fish weighing more than 5 grams,

that were moved on to the site, and off the site for the purpose of stocking other waters.

2. A statement whether fish, dead or alive, have been moved on to the site to be eviscerated or processed.

Regulation 31B(2)(a)(ii)

## PART 2

### Shellfish Farm

- 1. In the case of shellfish moved on to the site—
  - (a) the number of consignments of each species which, respectively, have been obtained from hatcheries or nurseries, from shellfish farms, and from wild stocks; and
  - (b) the number or total weight of each species in each consignment which, respectively, have been obtained from hatcheries or nurseries, from shellfish farms, and from wild stocks.
- 2. In the case of shellfish moved off the site for the purpose of stocking other waters—
  - (a) the number of consignments of each species; and
  - (b) the number or total weight of each species.

Regulation 31B(2)(b)

## PART 3

### Processing establishment

- 1. In the case of fish—
  - (a) the number of, and the number of consignments of, each species of fish received at the processing establishment for processing; and
  - (b) in respect of each consignment, the authorised production business and the containment area\* from which the fish came.
- 2. In the case of shellfish—
  - (a) the number or total weight of, and the number of consignments of, each species of shellfish received at the processing establishment for processing; and
  - (b) in respect of each consignment, the authorised production business and the containment area\* from which the shellfish came.

\* “Containment area” has the meaning given in paragraph (c) of Annex I (definitions) to Council Directive 2006/88/EC.]



[<sup>F17</sup>SCHEDULE 1B

Regulation 31C(1)(a)(i)

Particulars to be included in Records

**PART 1**

**Fish Farm**

1. In respect of each consignment, respectively, of fish, eggs or gametes moved on to the site—
  - (a) the date of the movement;
  - (b) the species;
  - (c) the number or weight;
  - (d) the size of fish;
  - (e) in the case of salmon, one or more statements (as the case may be) as to whether the consignment consisted of ova, fry, parr, smolts or post smolts;
  - (f) in the case of fish other than salmon, one or more statements (as the case may be) as to whether the consignment consisted of ova, fish weighing up to and including 5 grams or fish weighing more than 5 grams;
  - (g) the source;
  - (h) the suppliers; and
  - (i) the name of the carrier.
2. In respect of each consignment of, respectively, fish, eggs or gametes moved off the site—
  - (a) the date of the movement;
  - (b) the species;
  - (c) the number or weight;
  - (d) the size of fish;
  - (e) in the case of salmon, one or more statements (as the case may be) as to whether the consignment consisted of ova, fry, parr, smolts or post smolts;
  - (f) in the case of fish other than salmon, one or more statements (as the case may be) as to whether the consignment consisted of ova, fish weighing up to and including 5 grams or fish weighing more than 5 grams;
  - (g) the destination; and
  - (h) the name of the carrier.
- 3.—(1) Any increased mortality in respect of—
  - (a) the fish on the site; and
  - (b) any consignments of fish, eggs or gametes moved on to, or off, the site.

(2) In sub-paragraph (1), “increased mortality” has the meaning given in paragraph (j) of Annex I (definitions) to Council Directive [2006/88/EC](#).  
Regulation 31C(1)(a)(ii)

**Status:** Point in time view as at 14/12/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)

## PART 2

### Shellfish Farm

1. In respect of each consignment of shellfish moved on to the site and each consignment of shellfish moved off the site for the purpose of stocking other waters—

- (a) the date of the movement;
- (b) the species;
- (c) the number or weight;
- (d) the average size or weight;
- (e) the source; and
- (f) the name of the carrier.

2. Increased mortality (which has the meaning given in paragraph (j) of Annex I (definitions) to Council Directive [2006/88/EC](#)).  
Regulation 31C(1)(b)

## PART 3

### Processing establishment

1. In respect of each consignment of fish or shellfish received at the processing establishment—

- (a) the date of receipt;
- (b) the species;
- (c) the number or weight;
- (d) the supplier;
- (e) the name of the carrier; and
- (f) the destination of the fish or shellfish after processing.]

**Status:** Point in time view as at 14/12/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)

[F17] SCHEDULE 1C

Regulation 31D(2)

Farmed Fish Escapes – Initial Notification

This form is to be submitted immediately following **any circumstance** which caused or might have caused an escape of fish from a fish farm site.  
 Please refer to “WHAT TO DO IN THE EVENT OF AN ESCAPE OF FISH FROM A FISH FARM” for further guidance on how to complete this form:  
[www.scotland.gov.uk/Topics/Fisheries/Fish-Shellfish](http://www.scotland.gov.uk/Topics/Fisheries/Fish-Shellfish)

1. Please supply details of the authorised aquaculture production business (APB) and farm site:

Site Name:		Site No:	
APB Name:		APB No:	
Contact Name:		Telephone No:	
Fax No:		Email Address:	

2. Where fish have escaped, please supply the following details:

Date & time of incident (nearest estimate)		OS grid reference:	
Site location:		Estimated number of fish lost:	
Species:		Average weight:	
Age in months:		Growth stage:	
Please supply details of any treatments administered for which the fish are in withdrawal:			
Please confirm whether the fish were healthy at the time of the escape, or the nature of any disease:			
Please confirm mortality rates on site and the reasons for mortality:			

3. Please provide details of the circumstances surrounding the fish escape or potential escape (if necessary continue on a separate sheet):

Circumstances surrounding the escape or potential escape  Consider: human error, predation, suspected foul play, failure or wear and tear of equipment (mooring, ropes, netting, cages or pens, boats), weather conditions (wave height, wind speed and tidal strength):		
Suspected primary reason for escape or potential escape:		
Suspected underlying cause or reason for escape or potential escape (if applicable):		
Completed by:		<b>The form should be sent to:</b>  Marine Scotland                      Tel: 0131 244 6226 Aquaculture Unit                      Fax: 0131 244 6512 Area 1B North Victoria Quay Edinburgh 27 EH6 6QQ  Email: <a href="mailto:escapes@scotland.gsi.gov.uk">escapes@scotland.gsi.gov.uk</a>
Position in organisation:		
Date:		

**Status:** Point in time view as at 14/12/2019.  
**Changes to legislation:** There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009. (See end of Document for details)

[<sup>F17</sup>SCHEDULE 1D

Regulation 31E(2)]

Farmed Fish Escapes – Final Notification

This form is to be submitted **not later than 28 days** following the submission of the initial notification of circumstances which caused the escape of fish from a fish farm site.  
 Please refer to “WHAT TO DO IN THE EVENT OF AN ESCAPE OF FISH FROM A FISH FARM” for further guidance on how to complete this form:  
[www.scotland.gov.uk/Topics/Fisheries/Fish-Shellfish](http://www.scotland.gov.uk/Topics/Fisheries/Fish-Shellfish)

1. Please supply details of the business and the site:

Site Name:		Site No:	
APB Name:		APB No:	
Contact Name:		Telephone No:	
Fax No:		Email Address:	

2. Please provide final details of the escape:

Date of initial notification:		Total number of fish escaped *:	
Marine Scotland incident reference:		Number of fish recovered (if none please specify “none”):	
Action taken by business to recover fish:		Have site movement records been updated:	
Confirmed primary reason for escape			
Confirmed underlying cause of reason for escape (if applicable)			

3. Follow-up action:

What preventative measures have or will be taken to minimise the risk of a similar incident occurring on this or any of the business’ other sites (continue on a separate sheet if necessary):	
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		<b>The form should be sent to:</b>	
Completed by:		Marine Scotland	Tel: 0131 244 6226
Position in organisation:		Aquaculture Unit	Fax: 0131 244 6512
Date:		Area 1B North	
		Victoria Quay	
		Edinburgh	
		EH6 6QQ	
		Email: <a href="mailto:escapes@scotland.gsi.gov.uk">escapes@scotland.gsi.gov.uk</a>	

\* If the number of fish lost is unknown at this point, please submit a further final notification form, (in the same manner as the original final notification form) once that number has been established.

## SCHEDULE 2

Regulation 48

### Repeals, amendments and revocations

1. The Diseases of Fish Act 1937<sup>M11</sup> is repealed.

**Marginal Citations**

**M11** 1937 c. 33 (1 Edw. 8 & 1 Geo. 6).

2. In Schedule 8 to the Water Act 1973<sup>M12</sup>, omit paragraph 43.

**Marginal Citations**

**M12** 1973 c. 37.

3. In section 41(1) of the Salmon and Freshwater Fisheries Act 1975<sup>M13</sup>, for the definition of “fish farm”, substitute— ““fish farm”—

- (a) means a pond, stew, hatchery or other place used for keeping, with a view to their sale or to their transfer to other waters (including another fish farm), live fish, live eggs of fish, or foodstuff of fish, and
- (b) includes any buildings used in connection with a place mentioned in paragraph (a) and the banks and margins of any water in such a place;”.

**Marginal Citations**

**M13** 1975 c. 51; section 41(1) was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 15](#), paragraph 20(a).

4. In section 1(1) of the Import of Live Fish (Scotland) Act 1978<sup>M14</sup>, omit “Without prejudice to section 1(1) of the Diseases of Fish Act 1937 and”.

**Marginal Citations**

**M14** 1978 c. 35.

5. In Part 1 of paragraph 12 of Schedule 4 to the Customs and Excise Management Act 1979<sup>M15</sup>, omit the entry relating to the Diseases of Fish Act 1937.

**Marginal Citations**

**M15** 1979 c. 2.

6. The Diseases of Fish Act 1983<sup>M16</sup> is repealed.

**Marginal Citations**

**M16** 1983 c. 30.

7. In the Salmon Act 1986<sup>M17</sup>—

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- (a) in section 24(2)(b), omit “within the meaning of the Diseases of Fish Act 1937”; and
- (b) omit paragraph 6 of Schedule 4.

**Marginal Citations**

**M17** 1986 c. 62.

- 8.** In the Water Act 1989 <sup>M18</sup>–
- (a) in section 141(4)(b), for “, the Salmon and Freshwater Fisheries Act 1975 and the Diseases of Fish Act 1937” substitute “ and the Salmon and Freshwater Fisheries Act 1975 ”;
  - (b) omit paragraphs 3 and 8 of Schedule 17; and
  - (c) in Part 1 of Schedule 27, omit the entries relating to the Diseases of Fish Act 1937 and the Diseases of Fish Act 1983.

**Marginal Citations**

**M18** 1989 c. 15.

- 9.** In the Environment Act 1995 <sup>M19</sup>–
- (a) in section 2(1)(a)(v), omit “the Diseases of Fish Act 1937,”;
  - (b) omit section 6(7)(b)(i); and
  - (c) in Schedule 15–
    - (i) in paragraph 2(4)(c)(ii) omit “or under the Diseases of Fish Act 1937,”; and
    - (ii) omit paragraphs 4 and 23.

**Marginal Citations**

**M19** 1995 c. 25.

- 10.** In the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 <sup>M20</sup>–
- (a) in section 8(1), omit “Without prejudice to section 3 of the Diseases of Fish Act 1937 (c. 33) (powers and duties of fishery boards),”; and
  - (b) in section 69, in the definition of “fish farm” for “section 10(1) of the Diseases of Fish Act 1937” substitute “ section 41(1) of the Salmon and Freshwater Fisheries Act 1975 (c. 51) ”.

**Marginal Citations**

**M20** 2003 asp 15.

- 11.** In section 3(5)(b)(ii) of the Gangmasters (Licensing) Act 2004 <sup>M21</sup>, for “the Diseases of Fish Act 1937 (c. 33),” substitute “ Salmon and Freshwater Fisheries Act 1975 (c. 51) ”.

**Marginal Citations**

**M21** 2004 c. 11.

- 12.** The Diseases of Fish (Control) Regulations 1994 <sup>M22</sup> are revoked.

**Marginal Citations**

**M22** [S.I. 1994/1447](#).

13. The Fish Health Regulations 1997 <sup>M23</sup> are revoked.

**Marginal Citations**

**M23** [S.I. 1997/1881](#).

14. The Diseases of Fish (Control) Amendment (Scotland) Regulations 2000 <sup>M24</sup> are revoked.

**Marginal Citations**

**M24** [S.S.I. 2000/330](#).

15. The Fish Health Amendment (Scotland) Regulations 2001 <sup>M25</sup> are revoked.

**Marginal Citations**

**M25** [S.S.I. 2001/409](#).

16. In Schedule 1 to the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 <sup>M26</sup> omit paragraph 21.

**Marginal Citations**

**M26** [S.I. 2002/794](#).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Council Directive [2006/88/EC](#) (O.J. No. L 238, 24.11.2006, p.14) on animal health requirements for aquaculture animals and products thereof and on the prevention and control of certain diseases in aquatic animals.

Part 2 of these Regulations requires aquaculture production businesses, certain processing establishments and the import of ornamental aquatic animals to be authorised by the competent authority (regulation 5). Some undertakings, including put and take fisheries and specialist transport businesses, are required to be registered (regulation 12). Although these Regulations generally come into force on 27th March 2009, regulation 5(1), which makes it an offence to operate an aquaculture production business or certain types of processing establishment without authorisation, comes into force on 1st May 2009. Regulation 12(1), which makes it an offence to operate certain undertakings unless registered, comes into force on 1st August 2009.

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Part 3 imposes health requirements in relation to the placing on the market of aquaculture and other aquatic animals. One of the principal mechanisms for ensuring that health standards are met is the requirement for any necessary animal health certificates to be properly completed and to accompany the introduction of aquaculture animals into Scotland (regulation 17(1)). This Part also introduces disease prevention requirements in respect of the transport of such animals (regulations 19 to 21).

Part 4 establishes a system for the notification and control of disease outbreaks in aquatic animals. The competent authority is required to designate an area where a listed or emerging disease is suspected (regulation 24) and to make a confirmed designation (regulation 28) 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 26 and 30).

Part 5 makes provision as regards measures which may be taken in relation to *Gyrodactylus salaris* (Gs). The measures which may be taken include the creation of barriers to movements of fish and the treatment of waters with chemical agents (regulation 32), the clearance of fish farms (regulation 33) and such other measures as the competent authority considers appropriate (regulation 34).

Part 6 gives enforcement powers to inspectors, and allows the service of an enforcement notice (regulation 39). Appeals may be made against such a notice or in relation to an authorisation under Part 2. A person found guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to an unlimited fine (regulation 43).

Part 7 makes provision prohibiting vaccination without the prior permission of the competent authority (regulation 44), and as to the keeping of a public register of disease-free zones and compartments (regulation 45).

Regulatory Impact Assessment relating to these Regulations has been placed in the Scottish Parliament Information Centre, and a copy is available from Scottish Government Marine Directorate, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY.



**Status:**

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There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009.