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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 85**

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

**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.

**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.—(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 under Article 5 of Decision [2004/453/EC](#)(1) or 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 Article or Chapter.

(2) A person is guilty of an offence if, for the purpose of procuring the issue of an animal health certificate under Article 5 of Decision [2004/453/EC](#) or Chapter III of Regulation (EC) No. [1251/2008](#), that person—

- (a) makes a statement 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.

### **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

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(1) 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](#).

- (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—
    - (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 inspection 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)—
  - (a) “border inspection post” means, in relation to a species of animal, a place for the time being specified in relation to that species in Schedule 2 to the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007<sup>(2)</sup>;
  - (b) “quarantine facility” has the meaning given in Article 2(1) of Commission Decision 2008/946/EC<sup>(3)</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).

### **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—

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<sup>(2)</sup> S.S.I. 2007/194, as amended by S.S.I. 2007/375 and 2008/155.

<sup>(3)</sup> O.J. No. L 337, 16.12.2008, p.94.

- (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.