

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

**EXITING THE EUROPEAN
UNION, NORTHERN IRELAND
AQUACULTURE, NORTHERN IRELAND**

The Aquatic Animal Health and Alien Species in Aquaculture
(Amendment) (Northern Ireland) (EU Exit) Regulations 2019

Made - - - - *****

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1).

In accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 and come into force on exit day.

(2) These Regulations extend to Northern Ireland only.

Amendment of the Aquatic Animal Health Regulations (Northern Ireland) 2009

2.—(1) The Aquatic Animal Health Regulations (Northern Ireland) 2009(2) are amended as follows.

(2) In regulation 2—

(1) 2018 c. 16.

(2) S.R. 2009 No. 129, amended by S.R. 2011 No. 118 and S.I. 2011/1043.

- (a) in paragraph (2), in the definition of “listed disease”, in paragraph (a), for “Part II of Annex IV to Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008(3)”;
 - (b) after paragraph (8), insert—
 - “(9) For the purposes of the definition of “quarantine facility”, Article 2(1) of Commission [Decision 2008/946/EC](#) implementing Council [Directive 2006/88/EC](#) as regards requirements for quarantine of aquaculture animals is to be read as if—
 - (a) the reference to Article 4 of Directive 2006/88 were to regulation 7;
 - (b) the reference to Article 6 of Directive 2006/88 were to regulation 14;
 - (c) the reference to Annex 1 were a reference to Annex 1 as read in accordance with sub-paragraph (d);
 - (d) for the purposes of sub-paragraph (c), Annex 1 is to be read as if the reference to “a Member State, zone, compartment” were a reference to “Northern Ireland, or any zone or compartment within Northern Ireland”.”.
- (3) After regulation 14(4), insert—
 - “(5) For the purposes of paragraph (2), Part 1 of Annex 2 to Directive 2006/88 is to be read as if—
 - (a) in the words before paragraph 1(a), the reference to Article 6 were to regulation 14(1)(a);
 - (b) in paragraph 1(f), the reference to Part 2 of Annex 4 were to Annex 1A to Regulation 1251/2008;
 - (c) in paragraph 1(g)—
 - (i) the reference to Member State, zone or compartment were to Northern Ireland, or any zone or compartment within Northern Ireland;
 - (ii) the reference to Annex 4 were to Annex 1A to Regulation 1251/2008;
 - (d) in paragraph 2, the reference to the second subparagraph of Article 4(1) were to regulation 7(4).
 - (6) For the purposes of paragraph (3), Part 2 of Annex 2 to Directive 2006/88 is to be read as if the reference to Article 6 were to regulation 14(1)(b).”
- (4) In regulation 19(3)(c)—
 - (a) for “Part II of Annex IV to Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008”;
 - (b) after “Part A of Annex III to Directive 2006/88” insert “as read in accordance with regulation 21(7)”.
- (5) In regulation 19(8)—
 - (a) in the words before sub-paragraph (a), for “Part II of Annex IV to Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008”;
 - (b) for sub-paragraph (b)(i), substitute “comes from the United Kingdom or a constituent UK territory (as defined in Regulation 1251/2008), zone or compartment declared free of that disease”.
- (6) In regulation 19(9)—
 - (a) in the words before sub-paragraph (a), for “Part II of Annex IV to Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008”;

(3) A new Annex 1A to Regulation (EC) No.1251/2008 is inserted by the Aquatic Animal Health and Alien Species in Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I.2019/***).

- (b) for sub-paragraph (a), substitute “comes from the United Kingdom or a constituent UK territory (as defined in Regulation 1251/2008), zone or compartment declared free of that disease”.
- (7) In regulation 19(11)(a), for “Part II of Annex IV of Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008”.
- (8) In regulation 21(1)—
 - (a) for “Part II of Annex IV to Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008”;
 - (b) after “Part A of Annex III to Directive 2006/88” insert “as read in accordance with paragraph (7)”.
- (9) In regulation 21(4)(a)—
 - (a) for “Part II of Annex IV to Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008”;
 - (b) for “Part” in each place where it appears substitute “Annex”.
- (10) In regulation 21(5)(b)(i)—
 - (a) for “Part II of Annex IV of Directive 2006/88” substitute “Annex 1A to Regulation 1251/2008”;
 - (b) for “Part” substitute “Annex”.
- (11) After regulation 21(6), insert—
 - “(7) For the purposes of paragraph (1), regulations 19(3)(c) and 21(1) and paragraphs (1)(c)(iii) and 4(d) of Schedule 1A, Part A of Annex 3 to Directive 2006/88 is to be read as if in Category 1—
 - (a) the reference to Article 49 were a reference to Article 49 of that Directive read as if—
 - (i) in paragraph 1—
 - (aa) the references to “Member State” were to the United Kingdom or a constituent UK territory (as defined in Regulation 1251/2008);
 - (bb) the reference to “Part II of Annex IV” were to Annex 1A to Regulation 1251/2008;
 - (cc) the reference to the procedure in Article 62(2) were omitted;
 - (ii) in paragraph 2—
 - (aa) the references to “neighbouring Member States” were, in relation to Northern Ireland, references to neighbouring member States or neighbouring constituent UK territories;
 - (bb) for the words from “the Member State shall establish” to “territory” there were substituted “the competent authority shall establish appropriate buffer zones in the territory for which it is responsible”;
 - (cc) the reference to “the disease-free Member State” were to Northern Ireland, as the case may be;
 - (b) the reference to Article 50 were a reference to Article 50 of that Directive read in accordance with paragraph (8).
 - (8) For the purposes of paragraph (7)(b) and regulation 52(3), Article 50 of Directive 2006/88 is to be read as if—
 - (a) in the words before paragraph 1(a)—

- (i) the reference to “A Member State” were to “The Department”;
- (ii) the reference to Part 2 of Annex 4 were to Annex 1A to Regulation 1251/2008;
- (b) in paragraph 1(c), the reference to Part 2 of Annex 5 were to Part 2 of Annex 5 read in accordance with paragraph (9);
- (c) paragraphs 2, 3 and 4 were omitted.
- (9) For the purposes of paragraph (9)(b), Part 2 of Annex 5 to Directive 2006/88 is to be read as if—
 - (a) paragraphs 1.2, 1.3 and 2.2 were omitted;
 - (b) in paragraphs 1.4, 2.3 and 3.5, the reference to Part 1.2 were to Part 1.2 read in accordance with paragraph (10);
 - (c) paragraph 3.7 were omitted;
 - (d) in paragraph 4.2(b), the reference to Part 2 of Annex 4 were to Annex 1A to Regulation 1251/2008.
- (10) For the purposes of paragraph (9)(b), Part 1.2 is to be read as if—
 - (a) the references to “Member State” were references to “zone or compartment”;
 - (b) in subparagraph (b), the reference to “methods adopted pursuant to Article 49(3)” were a reference to “the methods established by Commission Implementing Decision (EU) 2015/1554 laying down rules for the application of [Directive 2006/88/EC](#), as regards requirements for surveillance and diagnostic methods”.
- (12) In regulation 25—
 - (a) in paragraphs (1) and (2), for “the European Union” in each place it occurs, substitute “the United Kingdom”;
 - (b) in paragraph (2), omit “in accordance with Article 17 or 20 of Directive 2006/88”.
- (13) After regulation 27(3), insert—

“(4) References in paragraph (2) to Articles 29 and 57 of Directive 2006/88 are to be read in accordance with Part 1 of Schedule 1A, and for that purpose—

 - (a) references in Article 29 to Article 26 or 28;
 - (b) references in Article 57 to Part 3 of Annex 6,

are to be read in accordance with Part 2 of Schedule 1A.”.
- (14) After regulation 31(3), insert—

“(4) For the purposes of paragraph (2)(d), Article 57 of Directive 2006/88 is to be read in accordance with regulation 27(4).”.
- (15) In regulation 37—
 - (a) in paragraph (1), for “Directive 2006/88” substitute “these Regulations”;
 - (b) for paragraph (2), substitute—

“(2) An inspector entering any premises, may be accompanied by such persons, and may enter with such equipment or vehicle, as the inspector considers necessary.”.
- (16) In regulation 51, for “Part II of Annex IV to Directive 2006/88 in accordance with Article 50 of that Directive” substitute “Annex 1A to Regulation 1251/2008”.
- (17) After regulation 52(2), insert—

“(3) For the purposes of paragraph (1), Article 50 of Directive 2006/88 is to be read in accordance with regulation 21(8).”.

- (18) In regulation 56—
- (a) in paragraph (1), omit “Directive 2006/88 or”;
 - (b) in paragraph (2), omit “Directive 2006/88.”
- (19) After Schedule 1, insert Schedule 1A as set out in the Schedule.

Amendment of the Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012

3. In regulation 12 of the Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012(4), for paragraph (6), substitute—

“(6) An inspector entering any premises may be accompanied by such persons, and may enter with such equipment or vehicle, as the inspector considers necessary for the purposes of these Regulations.”.

Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

SCHEDULE

Regulation 2(19)

Modifications to, and for the purposes of, Articles 29 and 57 of [Directive 2006/88/EC](#)

“SCHEDULE 1A

Regulation 27(4)

Modifications to, and for the purposes of, Articles 29 and 57 of Directive 2006/88

Part 1

Modifications to Article 29

1. Article 29 is to be read in accordance with this Schedule and as if—
 - (a) in the words before paragraph 1(a), the reference to “Member States” were to the Department;
 - (b) in paragraph 1(a)—
 - (i) the reference to “Part II of Annex IV” were to Annex 1A to Regulation 1251/2008;
 - (ii) the reference to “any Member State” were to Northern Ireland;
 - (c) in paragraph 1(b)—
 - (i) the reference to “Part II of Annex IV” were to Annex 1A to Regulation 1251/2008;
 - (ii) the reference to “Member States, zones or compartments” were to Northern Ireland, or any zone or compartment within Northern Ireland;
 - (iii) the reference to “Part A of Annex III” were a reference to Part A of Annex III read in accordance with regulation 21(7);
 - (d) in paragraph 3, the reference to “the Member State concerned” were to the Department;
 - (e) paragraph 4 were omitted.

Modifications to Article 57

2. Article 57 is to be read in accordance with this Schedule and as if—
 - (a) the reference to “Member States” were to the Department;
 - (b) the reference to “this Directive” were to retained EU law relating to animal health requirements for aquaculture animals and products, and the prevention and control of diseases in aquatic animals;
 - (c) the reference to “Part II of Annex IV” were to Annex 1A to Regulation 1251/2008;
 - (d) the reference to “diagnostic methods to be established in accordance with the procedure referred to in Article 62(2)” were to diagnostic methods established by Decision 2015/1554.

Part 2

Modifications to Article 26

3. Article 26(1) is to be read in accordance with this Schedule and as if—
 - (a) in the words before paragraph (a), the reference to “Member States” were to the Department;

- (b) in paragraph (a), the reference to “Part II of Annex IV” were to Annex 1A to Regulation 1251/2008.

Modifications to Article 28

4. Article 28 is to be read in accordance with this Schedule and as in the words before paragraph (a)—

- (a) the reference to “Member States”, in the first place where it appears, were to the Department;
- (b) the reference to “Part II of Annex IV”, in each place where it appears, were to Annex 1A to Regulation 1251/2008;
- (c) the reference to “Member States, zones or compartments” were to Northern Ireland, or any zone or compartment within Northern Ireland;
- (d) the reference to “Part A of Annex III” were a reference to Part A of Annex 3 read in accordance with regulation 21(7).

Modifications to Part 3 of Annex 6

5. Part 3 of Annex 6 is to be read in accordance with this Schedule and as if—

- (a) in the words before paragraph 1(a), “of a Member State” were omitted;
- (b) in paragraph 1(a), the reference to Annex 4 were to Annex 1A to Regulation 1251/2008;
- (c) in paragraph 3, the reference to “Member States” were to the Department.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in the European Union (Withdrawal) Act 2018 (c. 16) to address deficiencies in EU-derived domestic legislation in Northern Ireland arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to subordinate legislation in the fields of aquatic animal health and alien and locally absent species in aquaculture in relation to Northern Ireland.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.