
STATUTORY INSTRUMENTS

2020 No. 1388

The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020

PART 3

Amendment of retained direct EU law

CHAPTER 2

Aquatic Animal Health

Commission Decision 2009/177/EC

9.—(1) Commission [Decision 2009/177/EC](#) implementing Council [Directive 2006/88/EC](#) as regards surveillance and eradication programmes and disease-free status of Member States, zones and compartments is amended as follows.

(2) Before Section 1 insert—

“Article A1

Interpretation

In this Decision—

- (a) “the appropriate authority” means—
- (i) in relation to England, the Secretary of State;
 - (ii) in relation to Wales, the Welsh Ministers;
 - (iii) in relation to Scotland, the Scottish Ministers;
- but the appropriate authority is the Secretary of State if consent is given—
- (i) in respect of functions exercisable in relation to Scotland, by the Scottish Ministers;
 - (ii) in respect of functions exercisable in relation to Wales, by the Welsh Ministers;
- (b) “the Aquatic Animal Health Regulations” means—
- (i) in relation to England and Wales, the Aquatic Animal Health (England and Wales) Regulations 2009;
 - (ii) in relation to Scotland, the Aquatic Animal Health (Scotland) Regulations 2009;
- (c) “constituent GB territory”, means England, Wales or Scotland as the case may be;
- (d) “Decision 2015/1554” means 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;

- (e) “Regulation 1251/2008” means [Commission Regulation \(EC\) No 1251/2008](#) implementing Council [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.”.
- (3) Omit Section 1.
- (4) For the heading to Section 2 substitute “AREAS FREE OF NON-EXOTIC DISEASES”.
- (5) In Section 2, before Article 3, insert—

“Article 2a

Non-exotic disease-free status for a constituent GB territory

1. The appropriate authority for a constituent GB territory may declare that territory free of one or more of the non-exotic diseases listed in Annex 1A to Regulation 1251/2008 if—
- (a) the conditions in paragraph 2 and, where applicable, paragraph 3 are met; and
 - (b) the requirements for surveillance, buffer zones, sampling and diagnostic methods set out in Decision (EU) 2015/1554 have been met.
2. The first condition is that—
- (a) none of the species susceptible to the disease in question are present in the constituent GB territory;
 - (b) the pathogen is known not to be able to survive in the constituent GB territory and its water source; or
 - (c) the conditions in Part 1 of Annex 5 to [Directive 2006/88/EC](#) are met.
3. Where adjoining constituent GB territories or water catchment areas shared with a neighbouring constituent GB territory are not declared disease-free, the second condition is that appropriate buffer zones have been established to protect the disease-free territory from passive introduction of the disease.

Article 2b

Non-exotic disease-free status for a zone or compartment

1. The appropriate authority may declare a zone or compartment free of one or more of the non-exotic diseases listed in Annex 1A to Regulation 1251/2008 if—
- (a) the condition in paragraph 2 is met; and
 - (b) the requirements for surveillance, buffer zones, sampling and diagnostic methods set out in Decision (EU) 2015/1554 have been met.
2. The first condition is that—
- (a) none of the species susceptible to the disease in question are present in the zone or compartment;
 - (b) the pathogen is known not to be able to survive in the zone or compartment and, where relevant, its water source; or
 - (c) the conditions in Part 2 of Annex 5 to [Directive 2006/88/EC](#) are met.

Article 2c

Maintenance of non-exotic disease-free status

Where a constituent GB territory is declared free from one or more non-exotic diseases listed in Annex 1A to Regulation 1251/2008 in accordance with Article 2a, the appropriate authority may discontinue targeted surveillance and maintain its disease-free status provided that the conditions conducive to clinical expression of the disease in question exist.

However, for disease-free zones or compartments in a constituent GB territory not declared disease-free, and in all cases where conditions are not conducive to clinical expression of the disease in question, targeted surveillance shall be continued in accordance with the methods provided for in Decision 2015/1554, but at a level commensurate with the degree of risk.

Article 2d

Suspension and restoration of disease-free status

1. Where the appropriate authority has reason to believe that any of the conditions for maintaining disease-free status are no longer met in respect of their constituent GB territory, zone or compartment, the appropriate authority must apply the provisions of Part 4 of the Aquatic Animal Health Regulations.

2. Where the epizootic investigation required by Part 4 of the Aquatic Animal Health Regulations confirms that the conditions for maintaining disease-free status are still met, the disease-free status of the constituent GB territory, zone or compartment may be restored.

3. Where the epizootic investigation confirms a significant likelihood that infection has occurred, the disease-free status of the constituent GB territory, zone or compartment must be withdrawn. The requirements laid down in Annex 5 to [Directive 2006/88/EC](#) must be complied with before disease-free status is restored.

SECTION 2A

AREAS FREE OF EXOTIC DISEASE

Article 2e

Exotic disease-free status

1. The appropriate authority for a constituent GB territory may declare that territory, or a zone or compartment thereof, free of one or more of the exotic diseases listed in Annex 1A to Regulation 1251/2008 if the condition in paragraph 2 is met.

2. The condition is that—

- (a) none of the species susceptible to the disease in question are present in the constituent GB territory, zone or compartment;
- (b) the pathogen is known not to be able to survive in the constituent GB territory, zone or compartment and its water source;
- (c) susceptible species are present, but there has not been any observed occurrence of the disease in the constituent GB territory, zone or compartment for at least ten years; or
- (d) the last known occurrence was within the last ten years, but targeted surveillance has not detected the disease on a farm, or in a mollusc farming area, that rears any of the susceptible species.

Article 2f

Suspension and restoration of exotic disease-free status

1. Where the appropriate authority has reason to believe that the condition for maintaining exotic disease-free status is no longer met in respect of their constituent GB territory, zone or compartment, the appropriate authority must undertake an investigation.
 2. Where the investigation required by paragraph 1 confirms that the condition for maintaining exotic disease-free status is still met, the disease-free status of the constituent GB territory, zone or compartment may be restored.
 3. Where the investigation confirms a significant likelihood that infection has occurred, the exotic disease-free status of the constituent GB territory, zone or compartment must be withdrawn until the condition in Article 2e(2) is once again met..”.
- (6) Omit Articles 3 and 4.
- (7) For Article 5 substitute—

“Article 5

Savings for declarations of disease-free status made before IP completion day

1. Subject to paragraph 2, declarations of disease-free status made before IP completion day which are listed in Part C of Annex 1 are to be treated as if—
 - (a) references to Great Britain were to the relevant constituent GB territory; and
 - (b) they had been made in accordance with Article 2a or 2b (as the case may be).
 2. Paragraph 1 does not apply where, following IP completion day, disease-free status has been withdrawn in relation to any of the areas listed in Part C of Annex 1 in accordance with Article 2d.
 3. The Internet-based information pages required by Article 10 are to be considered to be the definitive list of constituent GB territories, zones and compartments which are declared to be disease-free..”.
- (8) Omit Section 3.
- (9) In the heading to Section 4, omit “OBLIGATIONS FOR REPORTS AND”.
- (10) Omit Article 9.
- (11) For Article 10 substitute—

“Article 10

Internet-based information pages

The appropriate authority must establish and keep up-to-date Internet-based information pages in order to make publicly available the list of constituent GB territories, zones or compartments declared to be disease-free..”.

- (12) Omit Sections 5 and 6.
- (13) In Annex 1—
- (a) omit Parts A and B;
 - (b) in Part C, for the table and the heading to that table substitute—

“Declarations of disease-free status prior to IP completion day

| <i>Disease</i> | <i>Geographical demarcation of the disease-free area</i> |
|---|---|
| Viral haemorrhagic septicaemia (VHS) | All continental and coastal areas within Great Britain. |
| Infectious haematopoietic necrosis (IHN) | All continental and coastal areas within Great Britain. |
| Infectious salmon anaemia (ISA); infection with genotype HPR-deleted of the genus Isavirus (ISAV) | All continental and coastal areas within Great Britain. |
| Infection with <i>Marteilia refringens</i> | The whole coastline of Great Britain. |
| Infection with <i>Bonamia ostreae</i> | <p>The whole coastline of Great Britain, except:</p> <ol style="list-style-type: none"> 1. The south coast of Cornwall from the Lizard to Start Point; 2. The coast of Dorset, Hampshire and Sussex from Portland Bill to Selsey Bill; 3. The area along the coast of North Kent and Essex from North Foreland to Felixstowe; 4. The area along the coast in south-west Wales from Wooltack Point to St Govan’s Head, including Milford Haven and the tidal waters of the East and West Cleddau river; 5. The area containing the waters of Loch Sunart east of a line drawn south-south-east from the northernmost tip of Maclean’s Nose to Auliston Point; 6. The area containing West Loch Tarbert north-east of a line drawn east-south-east from Ardrpatrick Point NR 734 578 to North Dunskeig Bay at NR 752 568; 7. The Dornoch Firth, the area of tidal waters west of a line drawn from NH808873 to NH835857 (Ordnance Survey Landranger 1:50,000 series) to the mean high water mark; 8. Lynn of Lorn, Loch Creran and Loch Etive, the area of marine waters south-east of the island of Lismore, contained within a circle of radius 7258 metres from point NM873391 (ordnance Survey Landranger 1:50,000 series) and including the tidal waters of Loch Etive and Loch Creran to the mean high water mark.” |

(14) Omit Annexes 2 to 6.