STATUTORY RULES OF NORTHERN IRELAND

2002 No. 53

DISEASES OF FISH

Diseases of Fish (Control) (Amendment) Regulations (Northern Ireland) 2002

Made . . . . . 15th February 2002

Coming into operation . . 10th March 2002

The Department of Agriculture and Rural Development, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Community, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Diseases of Fish (Control) (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 10th March 2002.

Amendment of the Diseases of Fish (Control) Regulations (Northern Ireland) 1996

2. The Diseases of Fish (Control) Regulations (Northern Ireland) 1996 shall be amended in accordance with the provisions of the Schedule.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 15th February 2002.

(L.S.) *E. Cummins (Mrs)*

A Senior Officer of the Department of Agriculture and Rural Development

(**a**) S.I. 1972/1811
(**b**) 1972 c. 68

SCHEDULE Regulation 2

Amendments of the Diseases of Fish (Control) Regulations (Northern Ireland) 1996

1. For regulations 2 to 7 there shall be substituted the following regulations:

"*Interpretation*

2.—(1) In these Regulations—

"the Act" means the Diseases of Fish Act (Northern Ireland) 1967(**a**);

"confirmed" in relation to a disease listed in either Part I or Part II of Schedule 3, means confirmed by or on behalf of the Department as a result of laboratory examination or, in the case of Infectious Salmon Anaemia, as a result of clinical examination and a post mortem examination;

"the Department" means the Department of Agriculture and Rural Development;

"Directive 93/53/EC"(**b**) means the Council Directive of 24th June 1993 introducing minimum Community measures for the control of certain diseases as amended by the Act of Accession of Austria, Finland and Sweden and by Council Directive 2000/27/EC of 2nd May 2000(**c**);

"farm" means any establishment licensed under the provisions of section 11 of the Fisheries Act (Northern Ireland) 1966(**d**);

"farm suspected of being infected" means a farm containing fish suspected of being infected;

"Fish Health Regulations" mean the Fish Health Regulations (Northern Ireland) 1998(**e**);

"fish suspected of being infected" means fish showing clinical signs or post mortem lesions or dubious reactions in laboratory tests giving rise to reasonable suspicion of the presence of a disease which is listed in Schedule 3;

"infected waters order' has the meaning assigned to it in section 1(1) of the Act;

"inland waters" means waters within Northern Ireland which do not form part of the sea or of any creek, bay, or estuary of a river as far as the tide flows;

"inspector" means a person appointed by the Department for the purposes of these Regulations;

"occupier" in relation to a fish farm means the person to whom a fish culture licence has been granted under the provisions of section 11 of the Fisheries Act (Northern Ireland) 1966;

"official census" has the meaning given to it in regulation 3;

"scheme" means the scheme established by the United Kingdom pursuant to Article 6 of Directive 93/53/EEC for the withdrawal of all fish in Northern Ireland farms infected with Infectious Salmon Anaemia and approved by the Commission by Decision 2001/872/EC(**f**);

(**a**) 1967. Ch. 7
(**b**) O.J. No. L175, 19.07.93, p. 23
(**c**) O.J. No. L114, 13.05.00, p. 29
(**d**) 1966 c. 17 (N.I.)
(**e**) S.R. 1998 No. 310
(**f**) O.J. No. L325, 07.12.01, p. 33

"waters" means any waters (including the waters of any farm) frequented by, or used, for keeping live fish, live eggs of fish, or foodstuff for fish and includes the banks or margins of any such waters and any buildings used in connection therewith;

(2) All other expressions have the meaning they bear in the Fish Health Regulations.

(3) All notices served, authorisations granted or directions given under these Regulations—

(*a*) shall be in writing;

(*b*) may be made subject to conditions; and

(*c*) may be amended, supplemented, suspended or revoked in writing at any time.

(4) The control measures provided for in regulations 4 to 9 are without prejudice to any measures which may be taken to prevent, eradicate or control fish disease under the provisions of the Act, the Fisheries Act (Northern Ireland) 1966 and the Fish Health Regulations.

Official census

3.—(1) As soon as possible after an infected waters order has been made in relation to a farm suspected of being infected, the Department shall prepare a record containing the information set out in Schedule 2 (referred to in these Regulations as an "official census") in relation to the fish on the farm.

(2) After the official census has been prepared it shall be provided to the occupier of the farm to whom it relates and it shall be the duty of the occupier to check regularly for—

(*a*) any increased population, or

(*b*) new mortality,

of the fish on the farm and to make any appropriate amendments to the census.

(3) The official census, as amended in accordance with this regulation, shall be kept in such a place that it shall be available to the Department or an inspector on demand for copying or inspection.

(4) The official census, as amended in accordance with this regulation, shall be retained by the occupier of the farm for a period of 4 years from the date on which the relevant infected waters order has been revoked.

Control measures when disease in Part I of Schedule 3 is suspected on a farm

4.—(1) Where—

(*a*) a farm is suspected of being infected with a disease listed in Part I of Schedule 3; and

(*b*) an infected waters order has been made in relation to that farm,

the prohibitions and requirements set out in, or specified in accordance with, Schedule 4 shall have effect, and shall remain in effect, in relation to that farm for so long as the infected waters order remains in effect in relation to it.

(2) It shall be the duty of the occupier of the farm subject to the control measures referred to in paragraph (1) to take all reasonable steps to ensure that those measures are complied with.

Control measures if presence of a disease in Part I of Schedule 3 is confirmed on a farm

5.—(1) If the presence of a disease listed in Part I of Schedule 3 is confirmed in fish on a farm, the Department shall, by notice served on the occupier of the farm require—

(*a*) the withdrawal of all fish from the waters of the farm in accordance with the scheme;

(*b*) all live fish showing clinical signs of the disease to be killed and disposed of or consigned for disposal, under the supervision of the Department, in accordance with the provisions of the Animal By-Products Regulations (Northern Ireland) 1993(**a**) applicable to high risk material;

(*c*) the disposal or consignment for disposal of all eggs, gametes and dead fish under the supervision of the Department in accordance with the provisions of the Animal By-Products Regulations (Northern Ireland) 1993 applicable to high risk material;

(*d*) where the waters of the farm are inland waters, the draining, cleaning and disinfection of all pools on the farm;

(*e*) in any case where the Department has authorised the fattening of fish which show no sign of disease until they reach commercial size and directed the slaughter and gutting of such fish for processing or marketing for human consumption:

(i) the disposal or consignment for disposal of any resultant fish waste and offal in accordance with the provisions of the Animal By-Products Regulations (Northern Ireland) 1993 applicable to high risk material so as to destroy any disease pathogens; and

(ii) the treatment of water used in connection with such fish so as to inactivate any disease pathogens it may contain;

(*f*) the cleaning and disinfection or destruction of any equipment, material or substances liable to be contaminated with the disease pathogen, under the supervision of the Department; and

(*g*) that the repopulation of the farm shall only take place when the Department so authorises by notice.

(2) A notice served under paragraph (1), shall—

(*a*) include such directions as to the process of, and timetable for, the carrying out of the control measures set out therein or specified in accordance therewith and for the keeping and submission of records as the Department may consider appropriate having regard to the terms of the scheme; and

(*b*) be accompanied by a copy of the scheme.

(3) Following the service of a notice under paragraph (1), the Department may by notice issue such directions or, as the case may be, further or amended directions as to the process of and timetable for carrying out the control measures set out in the notice or specified in accordance therewith and as to the keeping and submission of records as the Department may consider appropriate having regard to the terms of the scheme.

(**a**) S.R. 1993 No. 192 as amended by S.R. 1998 No. 108

Control measures when a disease in Part II of Schedule 3 is suspected

6.—(1) Where a farm is suspected of being infected with a disease listed in Part II of Schedule 3, and an infected waters order has been made in relation to it, then the prohibitions and requirements set out in, or specified in accordance with, Schedule 4 shall have effect, and shall remain in effect, in relation to that farm for so long as the infected waters order remains in effect in relation to it.

(2) It shall be the duty of the occupier of the farm subject to the control measures referred to in paragraph (1) to take all reasonable steps to ensure those measures are complied with.

Control measures when a disease listed in Part II of Schedule 3 is confirmed

7.—(1) If the presence of a disease listed in Part II of Schedule 3 is confirmed in fish on a farm, the Department may, by notice served on the occupier of the farm require—

(*a*) the withdrawal of all fish from the waters of the farm in accordance with the directions contained in the notice or contained in any notice issued under paragraph (4);

(*b*) all live fish showing clinical signs of the disease to be killed and disposed of or consigned for disposal, under the supervision of the Department, in accordance with the provisions of the Animal By-Products Regulations (Northern Ireland) 1993 applicable to high risk material;

(*c*) the disposal of or consignment for disposal of all eggs, gametes and dead fish, under the supervision of the Department and in accordance with the provisions of the Animal By-Products Regulations (Northern Ireland) 1993 applicable to high risk material;

(*d*) in any case where the waters of which are inland waters, the draining, cleaning and disinfection of all pools on the farm;

(*e*) in any case where the Department has authorised the fattening of fish which show no sign of disease until they reach commercial size and directed the slaughter and gutting of such fish for processing or marketing for human consumption:

(i) the disposal or consignment for disposal of any resultant fish waste and offal in accordance with the provisions of the Animal By-Products Regulations (Northern Ireland) 1993 applicable to high risk material so as to destroy any disease pathogens; and

(ii) the treatment of water used in connection with such fish so as to inactivate any disease pathogens it may contain;

(*f*) the cleaning and disinfection or destruction of any equipment, material or substances liable to be contaminated with the disease pathogen, under the supervision of the Department; and

(*g*) that the repopulation of the farm shall only take place when the Department so authorises by notice.

(2) A notice served under paragraph (1) shall include such directions as to the process of, and timetable for, carrying out the control measures set out therein or specified in accordance therewith and as to the keeping and submitting of records as the Department may consider appropriate.

(3) Following the service of a notice under paragraph (1), the Department may by notice issue such directions, or as the case may be, further or amended directions as to the process of and timetable for carrying out the requirements set

out in the notice and as to the keeping and submission of records as the Department may consider appropriate.".

2. Regulation 8 shall be revoked.

3. In paragraph (3) of regulation 9 the words "land or" shall be deleted.

4. For paragraph (1) of regulation 10 (prohibition on vaccination against disease) there shall be substituted the following paragraph:—

"(1) A person shall not vaccinate any fish or cause any fish to be vaccinated against any disease listed in Part I of Schedule 3 unless—

(*a*) the presence of the disease has been confirmed at any place in Northern Ireland; and

(*b*) he has obtained the prior authorisation of the Department to do so."

5. In paragraph (1) of regulation 11 (powers of an inspector) after the words "enter any land or premises" there shall be inserted the words "(other than premises used only as a dwelling)".

6. For regulation 12 (failure to comply with control measures) there shall be substituted the following regulation:—

"*Failure to comply with control measures*

12.—(1) If any person fails to comply with any control measure then, without prejudice to any proceedings following such failure, an inspector may enter on any premises in relation to which such control measure relates and take, or cause to be taken, such steps as appear to the inspector to be necessary either to ensure compliance with the control measure or to remedy the failure to comply with it, and all reasonable costs of taking such steps shall be recoverable by the Department from the person required to comply with the control measure.

(2) In paragraph (1) above, "control measure" means any requirement or prohibition or restriction imposed on any person (other than the Department) by or under these Regulations or by any notice served under them.".

7. In paragraph (1) of regulation 14 (offences and penalties), for the words "any provisions of these Regulations" there shall be substituted the words "any requirement or prohibition imposed on him by or under these Regulations".

8. Schedules 1 and 5 shall be deleted.

9. In Schedule 4, paragraph 1(*f*)(ii) for the words "owners or keepers" there shall be substituted "occupiers".

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Diseases of Fish (Control) Regulations (Northern Ireland) 1996 ("the 1996 Regulations").

The 1996 Regulations implemented in Northern Ireland Council Directive 93/53/EEC introducing minimum Community measures for the control of certain fish diseases (O.J. No. L175, 19.07.93, p. 23) ("the Directive").

These Regulations, in addition to making a number of minor and consequential drafting amendments to the 1996 Regulations, implement, in relation to Northern Ireland, amendments to the Directive made by Council Directive 2000/27/EC (O.J. No. L114, 13.05.2000, p. 28).

The main changes made to the 1996 Regulations are as follows:—

1. the references to approved zones are deleted as the whole of Northern Ireland is approved under Council Directive 91/67/EEC and Commission Decision 2001/532/EC.
2. regulation 5 of and Schedule 5 to the 1996 Regulations (*which required certain control measures to be taken when the presence of a disease listed in Part I of Schedule 3 to those Regulations is confirmed*) has been replaced by a new regulation 5. This provides that where the presence of a disease listed in Part I of Schedule 3 is confirmed on a farm the Department of Agriculture and Rural Development ("the Department") is required to issue appropriate directions as to the process and timetable for the carrying out of the control measures required to be taken by the occupier of the farm under the regulation. In issuing such directions the Department is to have regard to the scheme established by it pursuant to Article 6 of the Directive (as amended by Council Directive 2000/27/EC) and which was approved by the European Commission by Decision (2001/872/EC) (O.J. No. L325, 07.12.01, p. 33).
3. regulation 7 of and Schedule 5 to the 1996 Regulations which previously required certain control measures to be taken where the presence of a disease listed in Part II of Schedule 3 was confirmed on a farm in an approved zone or on an approved farm not in an approved zone, has been replaced by a new regulation 7 which requires control measures to be taken on any farm where there is confirmation of the presence of fish with such a disease. As regards the control measures to be applied, the provision in regulation 7 of the 1996 Regulations for the immediate removal of fish to be required has been deleted and there is now provision for directions to be given as to the process of and timetable for the specified control measures to be carried out. In implementation of a derogation provided for under Article 9(3) of the Directive, these directions can include authorisation for the fattening of fish until they reach commercial size and then requiring them to be

slaughtered and gutted for marketing or processing for human consumption.

4. regulation 8, which is spent, is revoked.

5 regulation 10(1) of the 1996 Regulations which prohibited the vaccination of fish against the diseases listed in Schedule 3, Part I, has been replaced by a new regulation 10 which permits the vaccination of fish against diseases listed in Part I of Schedule 3 where the presence of such a disease has been confirmed at any place in Northern Ireland and where the prior authorisation of the Department has been obtained; and

6. the power of an inspector under regulation 11 of the 1996 Regulations to enter premises for enforcement purposes is no longer exercisable in relation to premises used exclusively as a dwelling.

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