
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 85

The Aquatic Animal Health (Scotland) Regulations 2009

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.

- (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 [^{F1}competent authority];
 - (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.
- [^{F2}(4) The reference in paragraph (2)(c) to Article 29 of [Directive 2006/88/EC](#) is to be read in accordance with paragraph 1 of schedule 1E of these Regulations.]

Textual Amendments

- F1** Words in [reg. 24\(2\)\(b\)](#) substituted (31.12.2020) by [The Aquaculture and Fisheries \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/393\)](#), regs. 1(3), **3(6)(a)**
- F2** [Reg. 24\(4\)](#) inserted (31.12.2020) by [The Aquaculture and Fisheries \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/393\)](#), regs. 1(3), **3(6)(b)**

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.—^[F3](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.

^[F4](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

- F3** 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)**
- F4** 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.
- (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.—^[F5](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.

[^{F6}(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

- F5** 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)**
- F6** 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)**

Changes to legislation:

There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009, PART 4.