

**2011 No. 259**

**RIVER**

**FISH FARMING**

**The Aquatic Animal Health (Scotland) Amendment  
Regulations 2011**

<i>Made</i> - - - -	<i>20th May 2011</i>
<i>Laid before the Scottish Parliament</i>	<i>24th May 2011</i>
<i>Coming into force</i> - -	<i>27th May 2011</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for any reference to Commission Regulation (EC) No. 1251/2008(b) on implementing 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 to be construed as reference to that instrument as amended from time to time.

**Citation and commencement**

1. These Regulations may be cited as the Aquatic Animal Health (Scotland) Amendment Regulations 2011 and come into force on 27th May 2011.

**Amendment of the Aquatic Animal Health (Scotland) Regulations 2009**

2.—(1) The Aquatic Animal Health (Scotland) Regulations 2009(c) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3(1) (interpretation), omit the definition of “Decision 2004/453/EC”.

(3) For paragraphs (1) and (2) of regulation 17 (certification requirements), substitute—

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(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part 1. Paragraph 1A of Schedule 2 was inserted by the 2006 Act, section 28 and amended by the 2008 Act, Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) O.J. L 337, 16.12.2008, p.41 as last amended by Commission Regulation (EU) No. 350/2011 (O.J. L 97, 12.4.2011, p.9).

(c) S.S.I. 2009/85.

“(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 in terms of 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 Chapter.

(2) A person is guilty of an offence if, for the purpose of procuring the issue of an animal health certificate under 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.”.

(4) In Schedule 1 (list of diseases)—

- (a) in the first column (disease), after “Spring viraemia of carp”, insert “Ostreid herpesvirus 1  $\mu$ var (OsHV-1  $\mu$ var)”; and
- (b) in the corresponding entry in the second column (susceptible species) insert “Pacific oyster (*Crassostrea gigas*)”.

*R CUNNINGHAM*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
20th May 2011

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Aquatic Animal Health (Scotland) Regulations 2009 (“the 2009 Regulations”) implement Council Directive 2006/88/EC (O.J. L 238, 24.11.2006, p.14) on animal health requirements for aquaculture animals and products thereof and on the prevention and control of certain diseases in aquatic animals.

Article 6 of Commission Decision 2010/221/EU (O.J. L 98, 20.4.2010, p.7) repealed Commission Decision 2004/453/EC (O.J. L 156, 30.4.2004, as corrected by O.J. L 202, 7.6.2004 p.4). Commission Decision 2011/187/EU (O.J. L 80, 26.3.2011, p.15) amends Commission Decision 2010/221/EU.

Regulation 2(2) amends the 2009 Regulations to remove references to repealed legislation and regulation 2(3) updates the offence provisions in regulation 17(1) and (2) of the 2009 Regulations in consequence of the repeal of Commission Decision 2004/453/EC. The animal health certificate formerly under Article 5 of Decision 2004/453/EC is now provided for in Chapter III or IV of Commission Regulation (EC) No. 1251/2008 (O.J. L 337, 16.12.2008, p.41) (“Regulation 1251/2008”), as last amended by Commission Regulation (EU) No. 350/2011 (O.J. L 97, 12.4.2011, p.9). The third country import certificates in Annex IV of Regulation 1251/2008 (referred to in Chapter IV of Regulation 1251/2008) are provided for in Commission Regulation (EU) No. 346/2010 (O.J. L 104, 24.4.2010, p.1). Regulation 2(4) adds OsHV-1  $\mu$ var to the list of notifiable diseases in Schedule 1 to the 2009 Regulations.

A Business and Regulatory Impact Assessment (“BRIA”) has been prepared in relation to these Regulations and placed in the Scottish Parliament Information Centre. Copies of the BRIA associated with the 2009 Regulations are available from Marine Scotland, Victoria Quay, Leith, Edinburgh, EH6 6QQ.

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