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STATUTORY INSTRUMENTS

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**2009 No. 463**

**The Aquatic Animal Health (England  
and Wales) Regulations 2009**

**PART 2**

**Authorisation and registration requirements**

**Application of Part 2**

**4.** This Part does not apply where any ornamental aquatic animal is kept in any pet shop, garden centre, garden pond, commercial aquarium or with any wholesaler—

- (a) without any direct contact with natural waters; or
- (b) that is equipped with an effluent treatment system reducing the risk of transmitting diseases to such waters to an acceptable level;

unless the animal is kept by a person who has introduced it into England or Wales.

**Authorisation**

**5.—(1)** Subject to regulation 14, it is an offence to operate an aquaculture production business or a processing establishment unless the business or establishment is authorised by the competent authority.

(2) The competent authority may grant an authorisation in relation to two or more aquaculture production businesses which are situated in one mollusc farming area, provided the businesses relate exclusively to molluscs.

(3) But a dispatch centre, purification centre or similar business in a mollusc farming area must be separately authorised.

(4) The requirement for a non-commercial installation or put and take fishery to be authorised under paragraph (1) only applies where the competent authority—

- (a) considers that authorisation is necessary to prevent or limit the spread of disease; and
- (b) serves the operator with a written notice to that effect.

(5) Where the operator is served with a notice under paragraph (4)(b), the operator must apply for authorisation under regulation 8(1) within 28 days of the service.

(6) Where the operator so applies, the operator is to be treated as having, as from the date of the application, an interim authorisation to carry on the activity to which the application relates until the interim authorisation lapses on the earliest of the dates mentioned in regulation 14(3).

**Authorisation conditions for aquaculture production businesses**

**6.—(1)** The competent authority may grant an authorisation to an aquaculture production business, subject to such conditions as it considers appropriate, where it is satisfied that the operation of the business will not lead to an unacceptable risk of spreading disease.

- (2) It is a condition of an authorisation that the aquaculture production business must—
- (a) keep a record, in such form and manner as the competent authority may specify, of—
    - (i) the movement of any aquaculture animal or any aquaculture animal product into or out of the premises of the business;
    - (ii) the number of any aquaculture animals that have died in each epidemiological unit within the premises;
    - (iii) the results of any surveillance carried out by the business; and
    - (iv) the results of any surveillance carried out by the competent authority which have been notified to the business;
  - (b) follow good hygiene practice; and
  - (c) comply with any surveillance requirement imposed by the authority.

#### **Authorisation conditions for processing establishments**

7.—(1) The competent authority may grant an authorisation to a processing establishment, subject to such conditions as it considers appropriate, where it is satisfied that the operation of the establishment will not lead to an unacceptable risk of spreading disease.

- (2) It is a condition of an authorisation that the processing establishment must—
- (a) keep a record, in such form and manner as the competent authority may specify, of the movement of any aquaculture animal or any aquaculture animal product into or out of the premises of the establishment; and
  - (b) follow good hygiene practice.

#### **Application for an authorisation**

8.—(1) An application for an authorisation must be in such form and contain such information as the competent authority may reasonably require.

(2) The competent authority must serve an applicant with a written notice of the result of the application within 90 days of receiving it.

(3) Where the competent authority grants an authorisation, it must notify the applicant of the following—

- (a) the duration of the authorisation;
- (b) any condition to which it is subject; and
- (c) an authorisation number.

(4) Where the competent authority refuses to grant an authorisation, or grants an authorisation subject to any condition, it must—

- (a) give reasons for the refusal or the imposition of the condition; and
- (b) inform the applicant of the right of appeal under regulation 37.

(5) It is an offence for a person to make a statement in an application that is false and which that person knows or suspects is false.

#### **Amendment of an authorisation**

9.—(1) The competent authority may amend an authorisation, including any condition to which it is subject.

- (2) The amendment may be made—

- (a) on the initiative of the competent authority; or
- (b) on application by an operator.
- (3) An application under paragraph (2)(b) must be in such form and contain such information as the competent authority may reasonably require.
- (4) The competent authority must serve a written notice on the operator which—
  - (a) specifies the amendment or any decision not to make the amendment;
  - (b) gives the reason for the amendment or any decision not to make it; and
  - (c) informs the applicant of the right of appeal under regulation 37.

### **Suspension of an authorisation**

**10.**—(1) The competent authority may suspend an authorisation by serving an operator with a written notice where it considers that an aquaculture production business, processing establishment, non-commercial installation or put and take fishery authorised under this Part has not complied with, is not complying with, or is not likely to comply with, a condition of its authorisation or a requirement in these Regulations.

- (2) The notice must—
  - (a) give the date on which the suspension is to take effect and its duration;
  - (b) give the reason for the suspension; and
  - (c) inform the operator of the right of appeal under regulation 37.

### **Revocation of an authorisation**

**11.**—(1) The competent authority may revoke an authorisation by serving an operator with a written notice where it considers that an aquaculture production business, processing establishment, non-commercial installation or put and take fishery authorised under this Part has not complied with, is not complying with, or is not likely to comply with, a condition of its authorisation or a requirement in these Regulations.

- (2) The notice must—
  - (a) give the date on which the revocation is to take effect;
  - (b) give the reason for the revocation; and
  - (c) inform the operator of the right of appeal under regulation 37.

### **Registration**

**12.**—(1) It is an offence to operate a non-commercial installation, put and take fishery or specialist transport business unless it is registered by the competent authority.

(2) An application for registration must be in such form and contain such information as the competent authority may reasonably require.

- (3) On receipt of the information, the competent authority must—
  - (a) undertake the registration; and
  - (b) serve the operator with a written notice of a registration number.

(4) An operator must notify the competent authority in writing of any change in the information provided under paragraph (2) within 90 days of the change.

- (5) It is an offence to fail to comply with paragraph (4).

(6) It is an offence for a person to provide information to the competent authority that is false and which that person knows or suspects is false.

(7) This regulation does not apply where a non-commercial installation or put and take fishery is required to be authorised by virtue of regulation 5(1) and (4).

### **Public record of aquaculture production businesses and processing establishments**

**13.**—(1) The competent authority must establish and maintain a record of—

- (a) any aquaculture production business authorised under regulation 6; and
- (b) any processing establishment authorised under regulation 7.

(2) The record must contain the information set out in Part I of Annex II to Directive [2006/88/EC](#) for a business authorised under regulation 6.

(3) The record must contain the information set out in Part II of that Annex for an establishment authorised under regulation 7.

(4) The record must be publicly available for inspection free of charge at all reasonable times and at such place as determined by the competent authority.

(5) The competent authority must make arrangements for the provision of a copy of an entry in the record on request.

(6) Those arrangements may include payment of a reasonable fee by the person making the request.

### **Transitional provision**

**14.**—(1) This regulation applies where—

- (a) a person operates an aquaculture production business or a processing establishment on 27th March 2009; and
- (b) makes an application for an authorisation under regulation 8 which has not been finally decided before 1st May 2009.

(2) The operator is to be treated as having, as from 1st May 2009, an interim authorisation to carry on the activity to which the application relates until the interim authorisation lapses in accordance with paragraph (3).

(3) It lapses on the earliest of the following dates—

- (a) when the application is withdrawn;
- (b) when the competent authority grants an authorisation under regulation 6 or 7;
- (c) where the competent authority refuses to grant an authorisation under regulation 6 or 7 and the applicant does not appeal, on the date on which the right of appeal lapses under regulation 37;
- (d) where the competent authority refuses to grant an authorisation under regulation 6 or 7 and the applicant does appeal, on the date on which the appeal is finally decided.