
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 85

The Aquatic Animal Health (Scotland) 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) which is equipped with an effluent treatment system which, in the opinion of the competent authority, reduces the risk of transmitting diseases to natural waters to an acceptable level.

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 a 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 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 area in respect of which the business operates;
 - (ii) the number of any aquaculture animals that have died in each epidemiological unit within that area;
 - (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 biosecurity practice;
 - (c) comply with any surveillance requirement imposed by the competent authority; and
 - (d) have a system in place which enables the operator to demonstrate to the competent authority that the requirements of subparagraphs (a) to (c) are being met.

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 of disease.

(2) It is a condition of an authorisation that the operator 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;
- (b) follow good biosecurity practice; and
- (c) have a system in place which will enable the operator to demonstrate to the competent authority that the requirements of subparagraphs (a) and (b) are being met.

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 the authorisation, it must notify—

- (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 40.

(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 any 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 give written notice to 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 40.

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 under 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 40.

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 under 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 40.

Registration

12.—(1) It is an offence to operate a non-commercial [^{F1}installation], a put and take fishery, or a 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 30 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 [^{F2}installation] or a put and take fishery is required to be authorised by virtue of regulation 5(1) and (4).

Textual Amendments

- F1** Word in [reg. 12\(1\)](#) substituted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(3)**
- F2** Word in [reg. 12\(7\)](#) substituted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), regs. 1(1), **2(3)**

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 to any person on request.

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

[^{F3}(7) The reference in paragraph (2) to Part 1 of Annex 2 to Directive [2006/88/EC](#) is to be read in accordance with paragraph 2 of schedule 1E of these Regulations.

(8) The reference in paragraph (3) to Part 2 of Annex 2 to Directive [2006/88/EC](#) is to be read in accordance with paragraph 3 of schedule 1E of these Regulations.]

Textual Amendments

- F3** Reg. 13(7)(8) 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(3)**

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 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) The interim authorisation 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 40;
- (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.

Changes to legislation:

There are currently no known outstanding effects for the The Aquatic Animal Health (Scotland) Regulations 2009, PART 2.