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DRAFT STATUTORY INSTRUMENTS

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**2020 No.**

The Aquatic Animal Health and Alien Species in Aquaculture,  
Animals, and Marketing of Seed, Plant and Propagating  
Material (Legislative Functions and Miscellaneous  
Provisions) (Amendment) (EU Exit) Regulations 2020

PART 2

Amendments to EU Exit domestic legislation

CHAPTER 1

Amendments to legislation relating to alien and locally absent species in aquaculture

**Amendment of the Aquatic Animal Health and Alien Species in Aquaculture (Amendment etc.) (EU Exit) Regulations 2019**

2.—(1) The Aquatic Animal Health and Alien Species in Aquaculture (Amendment etc.) (EU Exit) Regulations 2019<sup>(1)</sup> are amended as follows.

(2) In regulation 9—

(a) in paragraph (2)—

(i) for sub-paragraphs (a) to (d) substitute—

“(a) in paragraph 1—

(i) for “the Union” substitute “Great Britain”;

(ii) omit the words from “taking place” to the end;

(b) in paragraph 2, for “Member States” substitute “Great Britain”;

(c) in paragraph 3, for “the jurisdiction of Member States” substitute “Great Britain”;

(d) in paragraph 4, for the words from “comply with” to the end substitute “are closed ornamental facilities within the meaning of Article 2(a) of Commission Regulation 1251/2008<sup>(2)</sup>.”;

(ii) in sub-paragraph (e), for paragraph (ii) substitute—

“(ii) for “their territory” substitute “the constituent GB territory for which it is responsible”;

(iii) in sub-paragraph (g), for paragraph (ii) substitute—

“(ii) for “their territory” substitute “the constituent GB territory for which it is responsible”;

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(1) [S. I. 2019/451](#), to which there is an amendment not relevant to these Regulations. [S.I. 2019/451](#) comes into force on IP completion day by virtue of paragraph 1 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(2) EUR 2008/1251, which is prospectively amended by [S.I. 2019/451](#) and 795.

- (b) in paragraph (3), for sub-paragraphs (c) and (d) substitute—
  - “(c) for paragraph 18 substitute—
    - “**18.** ‘the appropriate authority’ means—
      - (a) in relation to England, the Secretary of State;
      - (b) in relation to Wales, the Welsh Ministers;
      - (c) in relation to Scotland, the Scottish Ministers;but the appropriate authority is the Secretary of State if consent is given—
      - (a) in relation to Wales, by the Welsh Ministers;
      - (b) in relation to Scotland, by the Scottish Ministers;”;
  - (d) for paragraph 19 substitute—
    - “**19.** ‘constituent GB territory’ means England, Wales or Scotland, as the case may be.”;
- (c) in paragraph (5), for sub-paragraph (a) substitute—
  - “(a) in paragraph 1—
    - (i) for “Member States” substitute “The appropriate authority”;
    - (ii) after “biodiversity” insert “in Great Britain”;
- (d) in paragraph (6)(b), in the substituted words, for “appropriate” substitute “competent”;
- (e) in paragraph (11)—
  - (i) for sub-paragraphs (a) and (b) substitute—
    - “(a) in paragraph 2, for “the territory of the Union” substitute “Great Britain”;
    - (b) for paragraph 3, substitute—
      - “**3.** The quarantine facility may be located in a constituent GB territory which is not the constituent GB territory in which the receiving aquaculture facility is located, provided that the appropriate authorities concerned agree and that this option has been included in the risk assessment under Article 9.”;
- (f) for paragraph (13) substitute—
  - “(13) In Article 21, for the unnumbered paragraph substitute—
    - “**1.** The competent authority may, in exceptional cases and subject to approval where required by paragraph 2, require quarantine in accordance with Article 15(2), (3) and (4) before release of species from non-routine translocations into open aquaculture facilities.
    - 2.** Where the appropriate authority is a different person to the competent authority, prior approval of the appropriate authority is required. The request for approval by the appropriate authority must indicate the reasons why quarantine is required. The appropriate authority must reply to such requests within 30 days.”;
- (g) in paragraph (14), omit sub-paragraph (b);
- (h) for paragraph (17) substitute—
  - “(17) In Annex 3—
    - (a) in the second paragraph—
      - (i) omit “in the Member State of its location”;

- (ii) for the last sentence, substitute—

“If the quarantine facility is not located in the constituent GB territory into which the alien species is to be introduced or the locally absent species is to be translocated (“the receiving constituent GB territory”), the advisory committee responsible for the quarantine facility and the advisory committee in the receiving constituent GB territory must agree on the duration.”;
- (b) in the paragraphs under the heading “Mortalities and disposal”—
  - (i) after “competent authority”, in both places where it occurs, insert “responsible for the facility”;
  - (ii) in the second paragraph, for “and Member States” substitute “, which”.
- (3) In regulation 10—
  - (a) for paragraphs (2) and (3) substitute—

“(2) In Article 2—

    - (a) in the words before point (a), for “Article 24(2)” substitute “Article 24(3)”;
    - (b) in point (b), for “a certain Member State” substitute “Great Britain”.

(3) After Article 2 insert—

*“Article 2a*

*Interpretation*

In this Regulation, “the appropriate authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;
- (c) in relation to Scotland, the Scottish Ministers;

but the appropriate authority is the Secretary of State if consent is given—

- (a) in respect of the functions exercisable in relation to Wales, by the Welsh Ministers;
- (b) in respect of the functions exercisable in relation to Scotland, by the Scottish Ministers.”;

- (b) after paragraph (7), insert—

“(8) In the Annex, in points 2.1.2.2, 3.2 and 3.4.3, omit “also in a second Community language (some lines)”.

**Amendment of the Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019**

**3.—**(1) Regulation 3 of the Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019(3) is amended as follows.

- (2) After paragraph (2), insert—

“(2A) In regulations 6(1)(b) and 8(1), for the words “the United Kingdom” substitute “Great Britain”.

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(3) *S.I. 2019/452*, to which there are amendments not relevant to these Regulations. *S.I. 2019/452* comes into force on IP completion day by virtue of paragraph 1 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(3) After paragraph (3), insert—

“(4) For regulation 25 substitute—

“**25.** The competent authority may disclose information to—

- (a) the equivalent authority in Scotland for the purposes of Council Regulation 708/2007, these Regulations, or legislation corresponding to these Regulations in Scotland;
- (b) the equivalent authority in Northern Ireland for the purposes of Council Regulation 708/2007, as it has effect by virtue of section 7A of the European Union (Withdrawal) Act 2018(4), these Regulations, or legislation corresponding to these Regulations in Northern Ireland.”.

### **Amendment of the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019**

4.—(1) Regulation 42 of the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019(5) is amended as follows.

(2) Before paragraph (2), insert—

“(1A) In Article 23, for the second and third paragraphs substitute—

“To facilitate the sharing of information contained in its register, the appropriate authority must use the information system set out in Commission Regulation 535/2008(6).

The appropriate authority may, by regulations, amend provisions of Commission Regulation 535/2008 relating to the establishment and development of an information system.”.

(3) In paragraph (2)(a), in inserted paragraph 1A, after point (b), insert—

“(c) amend Article 2 of Commission Regulation (EC) 535/2008 to adapt the specifications for the conditions necessary for adding species to Annex 4, as provided for in paragraph 3.”.

(4) In paragraph (4)—

(a) in inserted Article 24d—

- (i) in paragraph 1, for “Article 24(1)” substitute “Articles 23 and 24(1)”;
- (ii) omit paragraphs 4 and 8;

(b) in inserted Article 24e—

- (i) in paragraph 2, for “the United Kingdom” substitute “Great Britain”;
- (ii) omit paragraph 3(c);
- (iii) in paragraph 4—
  - (aa) for “any” substitute “either”;
  - (bb) for “to (c)” substitute “or (b)”.

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(4) 2018 c. 16; section 7A was inserted by section 5 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(5) S.I. 2019/753, to which there are amendments not relevant to these Regulations. S.I. 2019/753 comes into force on IP completion day by virtue of paragraph 1 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(6) EUR 2008/535, which is prospectively amended by S.I. 2019/451.