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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 129**

**The Aquatic Animal Health  
Regulations (Northern Ireland) 2009**

**PART 2**

**AUTHORISATION AND REGISTRATION REQUIREMENTS**

**Application of Part 2**

5. This Part does not apply where any ornamental aquatic animal is kept in a closed ornamental facility.

**Requirement for authorisation of aquaculture production businesses and processing establishments**

6.—(1) Subject to paragraph (2), it is an offence for a person to operate, or cause or permit another person to operate, an aquaculture production business or a processing establishment unless the business or establishment is—

- (a) authorised by the Department; and
- (b) operated in accordance with that authorisation.

(2) Paragraph (1) does not apply to—

- (a) a put and take fishery; or
- (b) a non-commercial installation.

**Authorisation**

7.—(1) An application for the authorisation of an aquaculture production business or a processing establishment shall be made to the Department and shall—

- (a) be made on a form provided by the Department for the purpose; and
- (b) be accompanied by such information in such form as the Department may reasonably require.

(2) Subject to paragraph (3) and regulation 8, the Department may grant an authorisation in relation to an aquaculture production business or a processing establishment on such terms and subject to such conditions as it considers appropriate, having regard to the risk of the spread of disease.

(3) The Department shall only grant an authorisation if it is satisfied that the operation of the aquaculture production business or the processing establishment will not lead to an unacceptable risk of spreading disease.

(4) The Department may grant a single authorisation in relation to two or more aquaculture production businesses situated in one mollusc farming area provided each business relates exclusively to molluscs.

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

(6) As soon as practicable after determining an application for an authorisation the Department shall give notice of its decision to—

- (a) the applicant;
- (b) in the case of an aquaculture production business situated in the Londonderry Area or the Newry Area, the Foyle, Carlingford and Irish Lights Commission;
- (c) in the case of an aquaculture production business situated outside those areas and which is an inland fishery or a salmon fishery, the Fisheries Conservancy Board for Northern Ireland<sup>(1)</sup>.

(7) An authorisation shall be in writing and shall specify—

- (a) the address of the aquaculture production business or the processing establishment to which the authorisation relates;
- (b) the name of the operator;
- (c) the purpose for which it is granted;
- (d) the duration of the authorisation;
- (e) any condition to which it is subject; and
- (f) the authorisation number assigned to the business or establishment.

(8) Where the Department refuses to grant an authorisation, or grants it subject to any condition other than a condition imposed under regulation 8, it shall, by notice served on the applicant—

- (a) give the reasons for the refusal or the imposition of the condition; and
- (b) inform the applicant of the right of appeal under regulation 44.

### **Conditions to be included in authorisation**

**8.—(1)** Where the Department grants an authorisation in relation to an aquaculture production business, it shall be a condition of the authorisation that the operator of the business shall—

- (a) keep a record of—
  - (i) the movement of any aquaculture animal and any aquaculture product into and out of the premises of the business;
  - (ii) the mortality in each epidemiological unit within the premises, as is relevant for the type of production carried on by the business;
  - (iii) the results of any surveillance carried out by the operator of the business; and
  - (iv) the results of any surveillance carried out by the Department which have been notified to the business,

in such form and manner as the Department may specify in the authorisation;

- (b) implement good hygiene practice;

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(1) The Fisheries Conservancy Board for Northern Ireland is prospectively abolished and its functions under the Fisheries Act (Northern Ireland) 1966 transferred to the Department of Culture, Arts and Leisure under section 1 of the Public Authorities (Reform) Act (Northern Ireland) 2009 c.3 (N.I.). However, by virtue of paragraph 4(1) of Schedule 1 to that Act, any reference to the Board in any statutory provision shall, subject to paragraph 4(2), after the day appointed for the coming into operation of section 1(1), be construed as a reference to that Department.

- (c) comply with any surveillance requirement imposed by the Department; and
  - (d) have a system in place which enables the operator to demonstrate to the Department that the requirements of sub-paragraphs (a) to (c) are being met.
- (2) Where the Department grants an authorisation in relation to a processing establishment, it shall be a condition of the authorisation that the operator of the establishment shall—
- (a) keep a record of the movement of any aquaculture animal and any aquaculture product into and out of the establishment in such form and manner as the Department may specify in the authorisation;
  - (b) implement good hygiene practice; and
  - (c) have a system in place which enables the operator to demonstrate to the Department that the requirements of sub-paragraphs (a) and (b) are being met.

### **Amendment of authorisation**

- 9.**—(1) The Department may—
- (a) on its own initiative; or
  - (b) on the application of the operator of an aquaculture production business or a processing establishment,

amend an authorisation, including any condition of an authorisation.

(2) An application under paragraph (1)(b) shall be made on a form provided by the Department for the purpose and be accompanied by such information in such form as the Department may reasonably require.

(3) Where the Department amends an authorisation under paragraph (1) or, in the case of an application under paragraph (1)(b), refuses to grant the application, it shall, by notice served on the operator—

- (a) specify the amendment and state the date on which it is to take effect or, in the case of a refusal, state its decision not to grant the application;
- (b) give the reasons for the amendment or the refusal; and
- (c) inform the operator of the right of appeal under regulation 44.

(4) Regulation 7(2), (3) and (6) shall apply with the necessary modifications to the amendment of an authorisation under paragraph (1)(a) or an application for amendment under paragraph (1)(b) as they apply to an application for an authorisation.

### **Suspension of authorisation**

**10.**—(1) The Department may, by notice (“a suspension notice”) served on the operator of an aquaculture production business or a processing establishment, suspend an authorisation where it considers that—

- (a) any condition of the authorisation or any requirement in these Regulations has not been complied with, is not being complied with or is not likely to be complied with; or
- (b) it is necessary to suspend the authorisation to prevent or limit the risk of the spread of disease.

(2) A suspension notice shall—

- (a) give the reasons for the suspension;
- (b) state the date on which the suspension is to take effect and its duration; and
- (c) inform the operator of the right of appeal under regulation 44.

(3) Except where regulation 44(7) applies, it is an offence for a person to fail to comply with a suspension notice.

### **Revocation of authorisation**

**11.**—(1) The Department may, by notice (“a revocation notice”) served on the operator of an aquaculture production business or a processing establishment, revoke an authorisation (in whole or in part) where it considers that—

- (a) any condition of the authorisation or any requirement in these Regulations has not been complied with, is not being complied with or is not likely to be complied with;
- (b) the aquaculture production business or processing establishment will not be operated in accordance with the authorisation or any requirement in these Regulations; and
  - (i) the authorisation is currently suspended and the period for appeal under regulation 44 has expired or the Department has upheld the suspension following an appeal; or
  - (ii) the Department has previously suspended the authorisation and there is further non-compliance with any condition of the authorisation or any requirement in these Regulations;
- (c) the aquaculture production business or processing establishment is no longer operated for the purpose for which the authorisation was granted or has ceased to operate; or
- (d) it is necessary to revoke the authorisation to prevent or limit the risk of the spread of disease.

(2) A revocation notice shall—

- (a) give the reasons for the revocation;
- (b) in the case of a partial revocation, specify the extent of the revocation;
- (c) state the date on which the revocation is to take effect;
- (d) inform the operator of the right of appeal under regulation 44.

(3) Where the Department revokes an authorisation in relation to an aquaculture production business, it shall give notice of the revocation to—

- (a) in the case of a business situated in the Londonderry Area or the Newry Area, the Foyle, Carlingford and Irish Lights Commission; or
- (b) in the case of a business situated outside those areas and which is an inland fishery or a salmon fishery, the Fisheries Conservancy Board for Northern Ireland.

### **Surrender of authorisation**

**12.**—(1) An authorisation may be surrendered by the operator of an aquaculture production business or a processing establishment to the Department in accordance with this regulation.

(2) An authorisation may only be surrendered if the Department accepts it.

(3) Where an operator desires to surrender an authorisation, the operator shall make an application to the Department on a form provided by the Department for the purpose and accompanied by such information in such form as the Department may reasonably require.

(4) On receiving an application under paragraph (3), the Department shall determine whether the cessation of the operation to which the authorisation relates is likely to lead to an unacceptable risk of spreading disease.

(5) Before accepting the surrender of an authorisation the Department—

- (a) shall inspect, or arrange to have inspected, the operation to which the authorisation relates; and

(b) may require the operator to carry out such works or do such things as may be specified in a notice served on the operator by the Department.

(6) If the Department is satisfied that the cessation of the operation to which the authorisation relates is not likely to lead to an unacceptable risk of spreading disease, the Department shall accept the surrender of the authorisation; but otherwise the Department shall refuse to accept it.

(7) Where the surrender of an authorisation is accepted, the Department shall issue to the operator, with the notice of its decision, a certificate stating that it is satisfied as mentioned in paragraph (6) and, on the issue of that certificate, the authorisation shall cease to have effect.

(8) Where the surrender of an authorisation is refused, the Department shall give notice of its decision to the operator.

(9) The notice shall—

- (a) give the reasons for the refusal; and
- (b) inform the operator of the right of appeal under regulation 44.

(10) Where the Department accepts the surrender of an authorisation in relation to an aquaculture production business, it shall give notice of the surrender to—

- (a) in the case of a business situated in the Londonderry Area or the Newry Area, the Foyle, Carlingford and Irish Lights Commission; or
- (b) in the case of a business situated outside those areas and which is an inland fishery or a salmon fishery, the Fisheries Conservancy Board for Northern Ireland.

### **Requirement to register put and take fisheries and non-commercial installations**

**13.**—(1) It is an offence for a person to operate, or cause or permit another person to operate, a put and take fishery or a non-commercial installation unless the fishery or installation is registered with the Department.

(2) An application for the registration of a put and take fishery or a non-commercial installation shall be made to the Department and shall—

- (a) be made on a form provided by the Department for the purpose; and
- (b) be accompanied by such information in such form as the Department may reasonably require.

(3) Where an application is made in accordance with paragraph (2), the Department shall—

- (a) register the fishery or installation;
- (b) assign to it a registration number; and
- (c) notify the operator of that number.

(4) The operator of a put and take fishery or non-commercial installation shall give notice to the Department—

- (a) of any change to the information provided to the Department under paragraph (2); or
- (b) if the fishery or installation ceases to operate,

within 28 days of the change or cessation.

(5) It is an offence for a person to fail to comply with paragraph (4).

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

**14.**—(1) The Department shall establish and maintain a register of—

- (a) aquaculture production businesses authorised under this Part; and

(b) processing establishments authorised under this Part.

(2) In the case of an aquaculture production business, the register shall contain the information specified in Part I of Annex II to Directive 2006/88.

(3) In the case of a processing establishment, the register shall contain the information specified in Part II of Annex II to Directive 2006/88.

(4) The Department shall—

(a) make the register available for inspection by the public free of charge at all reasonable times and at such place as may be determined by the Department; and

(b) afford members of the public reasonable facilities for obtaining from the Department, on payment of reasonable charges, a copy of any entry in the register.

### **Register of put and take fisheries and non-commercial installations**

**15.**—(1) The Department shall establish and maintain a register of put and take fisheries and non-commercial installations.

(2) The Department may disclose information contained in the register to—

(a) the Department of Culture, Arts and Leisure for the purposes of its functions under the Fisheries Act (Northern Ireland) 1966(2);

(b) the Fisheries Conservancy Board for Northern Ireland for the purposes of its functions under the Fisheries Act (Northern Ireland) 1966;

(c) the Foyle, Carlingford and Irish Lights Commission for the purposes of its functions under Part VIA of the Foyle Fisheries Act (Northern Ireland) 1952(3).

### **Amendment of Fisheries Act (Northern Ireland) 1966**

**16.**—(1) In section 11A of the Fisheries Act (Northern Ireland) 1966(4) after subsection (5) insert—

“(5A) Where, under Part 2 of the Aquatic Animal Health Regulations (Northern Ireland) 2009, the authorisation of the Department is required in connection with the operation of a fish farm, a fish culture licence shall not be issued in respect of that operation unless such authorisation is granted.”.

(2) If there is any conflict between a condition of a fish culture licence granted under section 11 of the Fisheries Act (Northern Ireland) 1966 and a condition of an authorisation granted under this Part, the condition of the authorisation shall prevail.

### **Aquaculture licences granted under Part VIA of Foyle Fisheries Act (Northern Ireland) 1952**

**17.** If, in relation to any aquaculture production business operating in the Londonderry Area or the Newry Area, there is any conflict between a condition of an aquaculture licence granted under Part VIA of the Foyle Fisheries Act (Northern Ireland) 1952(5) and a condition of an authorisation granted under this Part, the condition of the authorisation shall prevail.

(2) 1966 c.17 (N.I.)

(3) 1952 c.5 (N.I.)

(4) 1966 c.17 (N.I.); section 11A was inserted by Article 6 of the Fisheries (Amendment) (Northern Ireland) Order 1991 S.I. 1991/1466 (N.I.13)

(5) 1952 c.5 (N.I.); Part VIA was inserted by Article 3(1) of the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 S.I. 2007/915 (N.I. 9)