

2019 No. 452

EXITING THE EUROPEAN UNION, ENGLAND AND WALES

ANIMALS, ENGLAND AND WALES

AQUACULTURE, ENGLAND AND WALES

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

Sift requirements satisfied 27th November 2018

Made - - - - at 12.30 p.m. on 5th March 2019

Laid before Parliament at 5.35p.m. on 5th March 2019

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation and commencement

1. These Regulations may be cited as the Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019 and come into force on exit day.

The Aquatic Animal Health (England and Wales) Regulations 2009

2.—(1) The Aquatic Animal Health (England and Wales) Regulations 2009(b) are amended as follows.

(2) In regulation 3—

(a) in paragraph (1), in the definition of “listed disease”, for “Part II of Annex IV to Directive 2006/88/EC” substitute “Annex 1A to Regulation (EC) No.1251/2008(c)”;

(b) in paragraph (3)—

(a) 2018 c. 16.

(b) S.I. 2009/463, amended by S.I. 2011/981; there are other amending instruments but none is relevant.

(c) A new Annex 1A to Regulation (EC) No.1251/2008 is inserted by the Aquatic Animal Health and Alien Species in Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/****).

- (i) omit “Directive 2006/88/EC and”;
 - (ii) for “those instruments” substitute “that instrument”.
- (3) After regulation 13(6) insert—
- “(7) For the purposes of paragraph (2), Part 1 of Annex 2 to Directive 2006/88/EC is to be read as if—
- (a) in the words before paragraph 1(a), the reference to Article 6 were to regulation 13(1)(a) of the Aquatic Animal Health (England and Wales) Regulations 2009;
 - (b) in paragraph 1(f), the reference to Part 2 of Annex 4 were to Annex 1A to Regulation (EC) No.1251/2008;
 - (c) in paragraph 1(g)—
 - (i) the reference to Member State, zone or compartment were to England or Wales, or any zone or compartment within England or Wales; and
 - (ii) the reference to Annex 4 were to Annex 1A to Regulation (EC) No.1251/2008; and
 - (d) in paragraph 2, the reference to the second subparagraph of Article 4(1) were to regulation 5(2) of the Aquatic Animal Health (England and Wales) Regulations 2009.
- (8) For the purposes of paragraph (3), Part 2 of Annex 2 to Directive 2006/88/EC is to be read as if the reference to Article 6 were to regulation 13(1)(b) of the Aquatic Animal Health (England and Wales) Regulations 2009.”.
- (4) In regulation 18(1)—
- (a) for “Part II of Annex IV to Directive 2006/88/EC” substitute “Annex 1A to Regulation (EC) No.1251/2008”;
 - (b) for “that Directive” substitute “Directive 2006/88/EC”.
- (5) In regulation 18(4)(a)—
- (a) for “Part II of Annex IV to Directive 2006/88/EC” substitute “Annex 1A to Regulation (EC) No.1251/2008”;
 - (b) for “that Part”, in both places where it occurs, substitute “that Annex”.
- (6) In regulation 18(5)(b)(i)—
- (a) for “Part II of Annex IV to Directive 2006/88/EC” substitute “Annex 1A to Regulation (EC) No.1251/2008”;
 - (b) for “that Part” substitute “that Annex”.
- (7) After regulation 18(6) insert—
- “(7) For the purposes of paragraph (1), and paragraphs 1(c)(iii) and 4(d) of Schedule 1A to these Regulations, Part A of Annex 3 to Directive 2006/88/EC is to be read as if, in Category 1—
- (a) the reference to Article 49 were a reference to Article 49 of that Directive read as if—
 - (i) in paragraph 1—
 - (aa) the references to “Member State” were to the United Kingdom or a constituent UK territory (as defined in Regulation (EC) No.1251/2008);
 - (bb) the reference to “Part II of Annex IV” were to Annex 1A to that Regulation; and
 - (cc) the reference to the procedure in Article 62(2) were omitted;
 - (ii) in paragraph 2—
 - (aa) the references to “neighbouring Member States” were, in relation to England and Wales, references to neighbouring member States or neighbouring constituent UK territories;

- (bb) for the words from “the Member State shall establish” to “territory” there were substituted “the competent authority shall establish appropriate buffer zones in the territory for which it is responsible”;
 - (cc) the reference to “the disease-free Member State” were to England or Wales, as the case may be; and
- (b) the reference to Article 50 were a reference to Article 50 of that Directive read in accordance with paragraph (8).
- (8) For the purposes of paragraph (7)(b) and regulation 42(3), Article 50 of Directive 2006/88/EC is to be read as if—
 - (a) in the words before paragraph 1(a)—
 - (i) the reference to “A Member State” were to the United Kingdom; and
 - (ii) the reference to Part 2 of Annex 4 were to Annex 1A to Regulation (EC) No.1251/2008;
 - (b) in paragraph 1(c), the reference to Part 2 of Annex 5 to Directive 2006/88/EC were to Part 2 of Annex 5 read in accordance with paragraph (9); and
 - (c) paragraphs 2, 3 and 4 were omitted.
- (9) For the purposes of paragraph (8)(b), Part 2 of Annex 5 to Directive 2006/88/EC is to be read as if—
 - (a) paragraphs 1.2, 1.3 and 2.2 were omitted;
 - (b) in paragraphs 1.4, 2.3 and 3.5, the reference to Part 1.2 were to Part 1.2 read in accordance with paragraph (10);
 - (c) paragraph 3.7 were omitted; and
 - (d) in paragraph 4.2(b), the reference to Part 2 of Annex 4 were to Annex 1A to Regulation (EC) No.1251/2008.
- (10) For the purposes of paragraph (9)(b), Part 1.2 is to be read as if—
 - (a) in paragraph 2 of Part 1.2, references to “Member State” were references to “zone or compartment”; and
 - (b) in paragraph 2(b) of Part 1.2, the reference to methods adopted pursuant to Article 49(3) were a reference to the methods established by Decision 2015/1554.”.
- (8) After regulation 24(3) insert—

“(4) References in paragraph (2) to Articles 29 and 57 of Directive 2006/88/EC are to be read in accordance with Part 1 of Schedule 1A to these Regulations, and for that purpose—

 - (a) references in Article 29 to Article 26 or 28, and
 - (b) references in Article 57 to Part 3 of Annex 6,

are to be read in accordance with Part 2 of Schedule 1A.”.
- (9) In regulation 32, for paragraph (2) substitute—

“(2) An inspector entering any land under paragraph (1) may be accompanied by such person, and may enter together with such equipment or vehicle, as the inspector considers necessary.”.
- (10) After regulation 42(2) insert—

“(3) For the purposes of paragraph (1), Article 50 of Directive 2006/88/EC is to be read in accordance with regulation 18(8).”.
- (11) In regulation 43—
 - (a) in paragraph (1), omit “Directive 2006/88/EC or”;
 - (b) in paragraph (2), omit “Directive 2006/88/EC or,”.
- (12) After Schedule 1, insert Schedule 1A as set out in the Schedule to these Regulations.

The Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011

3.—(1) The Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011(a) are amended as follows.

(2) In regulation 4, omit paragraph (2).

(3) In regulation 12, for paragraph (6) substitute—

“(6) An inspector entering any land or premises under this regulation may be accompanied by such person, and may enter together with such equipment or vehicle, as the inspector considers necessary for the purposes of this regulation.”.

at 12 30p.m. on 5th March 2019

Gardiner of Kimble
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 2(12)

Modifications to, and for the purposes of, Articles 29 and 57 of Directive 2006/88/EC

“SCHEDULE 1A

Regulation 24(4)

Modifications to, and for the purposes of, Articles 29 and 57 of Directive 2006/88/EC

Part 1

Modifications to Articles 29 and 57

Modifications to Article 29

1. Article 29 is to be read as if—

- (a) in the words before paragraph 1(a), the reference to Member States were to the United Kingdom;
- (b) in paragraph 1(a)—
 - (i) the reference to “Part II of Annex IV” were to Annex 1A to Regulation (EC) No.1251/2008; and
 - (ii) the reference to “any Member State” were to “England or Wales”;
- (c) in paragraph 1(b)—
 - (i) the reference to “Part II of Annex IV” were to Annex 1A to Regulation (EC) No.1251/2008;
 - (ii) the reference to “Member States, zones or compartments” were to England or Wales, or any zone or compartment within England or Wales; and

(a) S.I. 2011/2292, to which there are amendments not relevant to these Regulations.

- (iii) the reference to “Part A of Annex III” were a reference to Part A of Annex III read in accordance with regulation 18(7);
- (d) in paragraph 3, the reference to “the Member State concerned” were to the United Kingdom; and
- (e) paragraph 4 were omitted.

Modifications to Article 57

2. Article 57 is to be read as if—
- (a) the reference to “Member States” were to the United Kingdom;
 - (b) the reference to “this Directive” were to retained EU law relating to animal health requirements for aquaculture animals and products, and the prevention and control of diseases in aquatic animals;
 - (c) the reference to “Part II of Annex IV” were to Annex 1A to Regulation (EC) No.1251/2008; and
 - (d) the reference to “diagnostic methods to be established in accordance with the procedure referred to in Article 62(2)” were to diagnostic methods established by Decision 2015/1554.

Part 2

Modifications to other Articles

Modifications to Article 26

3. Article 26(1) is to be read as if—
- (a) in the words before point (a), the reference to “Member States” were to the United Kingdom; and
 - (b) in point (a), the reference to “Part II of Annex IV” were to Annex 1A to Regulation (EC) No.1251/2008.

Modifications to Article 28

4. Article 28 is to be read in accordance with this Schedule and as if in the words before point (a)—
- (a) the reference to “Member States”, in the first place where it appears, were to the United Kingdom;
 - (b) the reference to “Part II of Annex IV”, in both places where it appears, were to Annex 1A to Regulation (EC) No.1251/2008;
 - (c) the reference to “Member States, zones or compartments” were to England or Wales, or any zone or compartment within England or Wales; and
 - (d) the reference to “Part A of Annex III” were a reference to Part A of Annex 3 read in accordance with regulation 18(7).

Modifications to Part 3 of Annex 6

5. Part 3 of Annex 6 is to be read in accordance with this Schedule and as if—
- (a) in the words before paragraph 1(a), “of a Member State” were omitted;
 - (b) in paragraph 1(a), the reference to Annex 4 were to Annex 1A to Regulation (EC) No.1251/2008; and
 - (c) in paragraph 3, the reference to Member States were to the United Kingdom.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in the European Union (Withdrawal) Act 2018 (c. 16) to address deficiencies in domestic legislation (in particular under section 8(2)(a) to (d) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to subordinate legislation in relation to aquatic animal health and alien and locally absent species in aquaculture in England and Wales.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.