



STATUTORY INSTRUMENTS.

S.I. No. 430 of 2011

EUROPEAN COMMUNITIES (HEALTH OF AQUACULTURE
ANIMALS AND PRODUCTS) (AMENDMENT) REGULATIONS 2011

(Prn. A11/1467)

EUROPEAN COMMUNITIES (HEALTH OF AQUACULTURE ANIMALS AND PRODUCTS) (AMENDMENT) REGULATIONS 2011

I, SIMON COVENEY, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Commission Regulation (EU) No. 350/2011 of 11 April 2011¹ and Commission Decision 2011/187/EU of 24 March 2011², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Health of Aquaculture Animals and Products) (Amendment) Regulations 2011.

2. The European Communities (Health of Aquaculture Animals and Products) Regulations 2008 (S.I. No. 261 of 2008) are amended—

(a) in Regulation 2(1), by substituting for the definition of “Commission Decision” (inserted by the European Communities (Health of Aquaculture Animals and Products) (Amendment) Regulations 2010 (S.I. No. 398 of 2010)) the following—

“ ‘Commission Decision’ means Commission Decision 2010/221/EU of 15 April 2010 as amended by Commission Decision 2011/187/EU of 24 March 2011;”,

(b) by substituting for Regulation 12, the following—

“12. (1) The Marine Institute shall declare an area around an infected premises to be a containment zone.

(2) The Marine Institute shall determine, having regard to the disease in question, the extent of a containment zone, which may be varied by further declaration.

(3) A declaration under paragraph (1) shall be subject to such conditions as the Marine Institute considers necessary, ancillary or supplementary for the purpose of controlling and eradicating the disease.

(4) A person shall comply with a declaration under this Regulation.”, and

(c) by substituting for Regulation 37, the following—

“37. (1) A person who—

¹O.J. L97, 12.4.2011, p. 9

²O.J. L80, 26.3.2011, p. 15

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 19th August, 2011.

- (a) imports fish of the family Cyprinidae in contravention of Article 1 of Commission Regulation (EC) No. 1252/2008 of 12 December 2008,
- (b) has in his or her possession or control, sells or supplies a fish that has been imported in contravention of Article 1 of Commission Regulation (EC) No. 1252/2008 of 12 December 2008, or
- (c) contravenes or aids or abets a contravention of Regulation 4, 5, 6(1), (2), 7(1), (2), 7A, 9, 10(4), 11(2), (5), 11A(1), 12(4), 13(1), (4), 16(1), 17(1), (6), 19(1), 20, 21, 22, 23(1), (3), (6), 24(1), (5), 26, 27, 29(2), 30(3), 31(7), 33 or 34 of these Regulations

commits an offence.

(2) A person who—

- (a) moves an ornamental aquatic animal in contravention of Article 4,
- (b) moves an aquaculture animal in contravention of Article 5,
- (c) moves an aquaculture animal or product intended for further processing before human consumption in contravention of Article 6,
- (d) moves live molluscs or crustaceans in contravention of Article 7,
- (e) moves an aquaculture animal or product from a member state, zone or compartment subject to disease control measures in contravention of Article 8,
- (f) moves an aquaculture animal intended for farming, a relaying area, a put and take fishery, an open ornamental facility or restocking that is not accompanied by a certificate, in contravention of Article 8a,
- (g) introduces a live aquaculture animal or mollusc in contravention of Article 9,
- (h) imports an aquaculture animal intended for a farm, relaying area, put and take fishery or open ornamental facility in contravention of Article 10,
- (i) imports an ornamental fish intended for a closed ornamental system other than in accordance with Article 11,

- (j) imports an aquaculture animal or product intended for human consumption in contravention of Article 12,
- (k) transports an aquaculture animal in contravention of Article 14,
- (l) handles or releases an aquaculture animal in contravention of Article 15,
- (m) deals with transport water in contravention of Article 15(3),
- (n) deals with a consignment in transit in contravention of Article 16,
- (o) otherwise contravenes a provision (cited in this paragraph)

of Commission Regulation (EC) No. 1251/2008 of 12 December 2008 (as amended by Commission Regulation (EC) No. 719/2009 of 6 August 2009, Commission Regulation (EU) No. 346/2010 of 15 April 2010 and Commission Regulation (EU) No. 350/2011 of 11 April 2011), commits an offence.

(3) A person who, with respect to a disease listed in the Commission Decision, introduces or attempts to introduce—

- (a) an aquaculture animal intended for farming, a relaying area, a put and take fishery, an open ornamental facility or restocking in contravention of the marketing, import or transit and storage requirements specified in Article 2(2)(a), or
- (b) an ornamental aquatic animal intended for a closed ornamental facility in contravention of the import or transit and storage requirements specified in Article 2(2)(b),

of the Commission Decision, commits an offence.

(4) A person convicted of an offence under these Regulations is liable—

- (a) on summary conviction, to a Class A fine, or to imprisonment for a term not exceeding 6 months, or to both, or
- (b) on conviction on indictment—
 - (i) in the case of a first offence, to a fine not exceeding €100,000, or to imprisonment for a term not exceeding 1 year, or to both, or
 - (ii) in the case of a second or subsequent offence to a fine not exceeding €250,000, or to imprisonment for a term not exceeding 3 years, or to both.

(5) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she is guilty of the offence.

(6) If the affairs of a body corporate are managed by its members, paragraph (5) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(7) Summary proceedings in relation to an offence under these Regulations may be brought and prosecuted by the Minister for Agriculture, Fisheries and Food.”.



Given under my Official Seal,
5 August 2011.

SIMON COVENEY,
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend the European Communities (Health of Aquaculture Animals and Products) Regulations 2008 (S.I. No. 261 of 2008) to, give effect to new measures introduced by Commission Decision 2011/187/EU as regards the approval of national measures for preventing the introduction of ostreid herpesvirus 1 μ var (OsHV-1 μ var). The Regulations provide for the establishment of national measures in relation to OsHV-1 μ var, which will allow areas (bays) which are currently free of the virus to be protected in terms of trading with areas infected with OsHV- 1 μ var.

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