

# **AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2013**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 1 Aquaculture**

#### ***Chapter 2 – Fish Farming: Equipment and Wellboats***

#### **Wellboats**

#### ***Section 6 - Enforcement notices***

18. **Section 6** makes provision for the service of enforcement notices in relation to failure to comply with the requirements of regulations made under section 5(1).
19. Where the Scottish Ministers are satisfied a person has failed or is failing to comply with any requirements imposed upon that person in regulations made under section 5, they may serve an enforcement notice upon that person. That notice must specify the matters referred to in section 6(3), and Ministers may decide to publish its service (section 6(4)). Where an enforcement notice has been served by the Scottish Ministers, the person upon whom it has been served may appeal against the notice to the sheriff within seven days of the service of the notice (section 6(5)). Section 6(7) provides that the lodging of a timeous appeal stops the effect of the notice, until such time as the appeal is withdrawn or determined.
20. **Section 6(8)** provides that upon hearing an appeal, the sheriff may make such order as he or she considers appropriate as regards the notice, and the sheriff's decision in the matter is final. Where an appeal is not upheld (i.e. is unsuccessful), section 6(9) provides that the sheriff may specify a date by which the action specified in the enforcement notice must be undertaken. For example, an appeal is made in respect of an enforcement notice which specifies 24 April 2015 as the date by which specified works require to be completed. The appeal is not upheld, and the sheriff specifies 26 May 2016 as the new completion date. The latter date prevails, and the specified works will require to be completed by 26 May 2016.
21. It is an offence, punishable upon summary conviction by a fine of up to Level 4 on the standard scale, for a person upon whom an enforcement notice has been served to fail to comply with the requirements of a notice - section 6(10) and (12). Section 6(11) makes provision for a reasonable excuse defence for persons charged with an offence under section 6(10).