

These notes relate to the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7) which received Royal Assent on 18 June 2013

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Schedule 2 – Forfeiture under section 46 or 47

Power to destroy fish before forfeiture

205. Paragraph 12 of schedule 2 allows the Scottish Ministers to destroy fish before they are formally forfeited under section 47 of the Act. This is essentially a practical consideration where officers encounter fish which are below minimum reference sizes for their retention, landing, storage, or offering for sale. Such under-sized fish cannot be sold and, as they will almost certainly be dead, cannot simply be returned to the sea. Paragraph 12(2) of schedule 2 makes provision for a sheriff to order the Scottish Ministers to pay compensation where the sheriff decides in response to an application for forfeiture under paragraph 7 of schedule 2 that the fish should not be forfeited. This may be, for example, where the sheriff was not satisfied that the fish in question were below the legal minimum reference size set. The value of any compensation is to be determined by the likely value such fish would have fetched had they been sold at the nearest fish auction market to the place where they were seized.