
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 103

**The Alien and Locally Absent Species in
Aquaculture (Scotland) Regulations 2015**

PART 3

**MOVEMENT OF ANNEX IV SPECIES AND
TRANSLOCATION OF LOCALLY ABSENT SPECIES**

Notification of movement of Annex IV species or translocation of locally absent species

9.—(1) This regulation applies to a proposal to—

- (a) move an Annex IV species;
- (b) translocate a locally absent species within Scotland or to Scotland from another part of [F1Great Britain].

(2) A person proposing to undertake a movement or translocation must notify the competent authority in writing of the proposal.

(3) An application for an authorisation to operate an aquaculture production business under the Aquatic Animal Health (Scotland) Regulations 2009(1) in respect of an Annex IV species or a locally absent species or an application for the amendment of such an authorisation in so far as it relates to a proposal mentioned in paragraph (1)(a) or (b) is a notification for the purposes of paragraph (2).

(4) Any person who notifies the competent authority in accordance with paragraph (2), or who is deemed to have done so in accordance with paragraph (3), in respect of the proposed movement of Annex IV species, must not undertake the proposed movement except under, and in accordance with any conditions of, a notice served under regulation 11 or a notice which has been amended under regulation 12.

(5) Paragraph (2) does not apply in respect of any subsequent movement of the same Annex IV species or translocation of the same locally absent species which are undertaken by the same person to the same aquaculture facility if—

- (a) the movement has previously been permitted by a notice served under regulation 11(2) (b) or (3)(b); or
- (b) the competent authority has previously served a notice under regulation 15(3), that a permit is not required in respect of a translocation.

F1 Words in [reg. 9\(1\)\(b\)](#) substituted (31.12.2020) by [The Aquaculture and Fisheries \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/393\)](#), [regs. 1\(3\), 4\(2\)](#)

Commencement Information

II [Reg. 9](#) in force at 3.4.2015, see [reg. 1\(1\)](#)

Exemption to regulation 9: rainbow trout and Pacific oysters

10. Regulation 9 does not apply to movements of—
- (a) *Crassostrea gigas* (Pacific cupped oyster);
 - (b) *Oncorhynchus mykiss* (rainbow trout).

Commencement Information

I2 Reg. 10 in force at 3.4.2015, see [reg. 1\(1\)](#)

Movement of Annex IV species

11.—(1) This regulation applies where the competent authority receives notification under regulation 9(2) of a proposal to move an Annex IV species or where notification is deemed to have been given by virtue of regulation 9(3).

(2) The competent authority must serve a written notice on the person proposing to undertake the movement—

- (a) prohibiting the movement;
- (b) permitting the movement and any subsequent movement of the same species undertaken by that person to the same aquaculture facility subject to any conditions stated in the notice; or
- (c) requiring the person, at that person's own cost, to submit an environmental risk assessment carried out in accordance with Article 9(1) of Council Regulation 708/2007.

(3) After considering any environmental risk assessment required under paragraph (2)(c) the competent authority must serve a written notice on the person proposing to undertake the movement—

- (a) prohibiting the movement; or
- (b) permitting the movement and any subsequent movement of the same species by that person to the same aquaculture facility subject to any conditions specified in the notice.

(4) A notice served under paragraph (2)(b) or (3)(b) must contain—

- (a) the unique reference number assigned to the notice;
- (b) the duration of the notice;
- (c) the species to which the notice applies; and
- (d) the aquaculture facility into which the movement is permitted.

(5) A notice served under paragraph (2)(a) or (b) or (3)(a) or (b) must include—

- (a) the reasons for that decision; and
- (b) information on the right of appeal under regulation 16.

Commencement Information

I3 Reg. 11 in force at 3.4.2015, see [reg. 1\(1\)](#)

Amendment of notice issued under regulation 11

12.—(1) The competent authority may amend a notice, or any condition of a notice, served under regulation 11(2) or (3) (movement of Annex IV species).

- (2) The amendment may be made—
 - (a) on the initiative of the competent authority; or
 - (b) on the application in writing by the notice holder.
- (3) An application under paragraph (2)(b) must be in such form and contain such information as the competent authority may reasonably require.
- (4) The competent authority must serve written notice on the notice holder which must include—
 - (a) the amendment or any decision not to make the amendment;
 - (b) the reasons for making the amendment or any decision not to make it;
 - (c) the date on which the amendment is to take effect; and
 - (d) information on the right of appeal under regulation 16.

Commencement Information

I4 [Reg. 12](#) in force at 3.4.2015, see [reg. 1\(1\)](#)

Suspension of notice under regulation 11

13.—(1) The competent authority may suspend a notice served under regulation 11 by serving the notice holder with written notice where it considers that the notice holder has not complied with, is not complying with, or is not likely to comply with, any condition of the notice or any provision of Council Regulation 708/2007 or these Regulations.

- (2) The notice must include—
 - (a) the date on which the suspension is to take place and its duration;
 - (b) the reasons for the suspension; and
 - (c) information on the right of appeal under regulation 16.

(3) The notice may include a direction requiring the removal and disposal of any aquatic organism to which the notice served under regulation 11 relates in such manner as may be specified in the notice served under paragraph (1).

Commencement Information

I5 [Reg. 13](#) in force at 3.4.2015, see [reg. 1\(1\)](#)

Revocation of notice under regulation 11

14.—(1) The competent authority may revoke a notice served under regulation 11 by serving the notice holder with written notice where it considers that the notice holder has not complied with, is not complying with, or is not likely to comply with, any condition of the notice issued under regulation 11 or any provision of Council Regulation 708/2007 or these Regulations.

- (2) The notice must include—
 - (a) the date on which the revocation is to take place;
 - (b) the reasons for the revocation; and
 - (c) information on the right of appeal under regulation 16.

(3) The notice may include a direction requiring the removal and disposal of any aquatic organism to which the notice served under regulation 11 relates in such a manner as may be specified in the notice served under paragraph (1).

Commencement Information

I6 Reg. 14 in force at 3.4.2015, see **reg. 1(1)**

Translocation of locally absent species

15.—(1) This regulation applies where the competent authority receives notification of a proposed translocation of a locally absent species under regulation 9(2) or where notification is deemed to have been given by virtue of regulation 9(3).

(2) The competent authority must serve written notice on the person proposing to undertake the translocation informing the person whether, for the purposes of Article 2(2) of Council Regulation 708/2007, there are grounds for foreseeing environmental threats due to the proposed translocation.

(3) A notice served under paragraph (2) must—

- (a) state whether a permit is, or is not, required for the translocation; and
- (b) if a permit is required—
 - (i) give reasons for the decision; and
 - (ii) inform the person on whom the notice is served of the right of appeal under regulation 16.

Commencement Information

I7 Reg. 15 in force at 3.4.2015, see **reg. 1(1)**

Appeal of notice under regulation 11, 12, 13, 14 or 15

16.—(1) A person (“the appellant”) may appeal to the competent authority against any of the following notices by complying with one of the requirements in paragraph (2) within 21 days from the date on which the notice was served:—

- (a) a notice served under regulation 11(2)(a) or (b) or (3) (movement of Annex IV species);
 - (b) a notice served under regulation 12(4) (amendment of notice);
 - (c) a notice served under regulation 13(1) (suspension of notice);
 - (d) a notice served under regulation 14(1) (revocation of notice); or
 - (e) a notice served under regulation 15(2) (translocation of locally absent species).
- (2) The requirements are—
- (a) to make written representations to the competent authority; or
 - (b) to serve on the competent authority written notice that the appellant wishes to appear before and be heard by an independent person appointed by the competent authority.
- (3) Where paragraph (2)(a) applies—
- (a) the competent authority must appoint an independent person to consider the representations;
 - (b) that person must consider the representations and provide a report to the competent authority; and

- (c) if the appellant requests the competent authority must provide a copy of that report.
- (4) Where paragraph (2)(b) applies—
 - (a) the competent authority must appoint an independent person to hear representations (“the appointed person”) and specify a time limit within which representations must be made;
 - (b) if the appellant requests, the hearing must be in public;
 - (c) the appointed person must consider the representations and provide a report to the competent authority; and
 - (d) if the appellant requests, the competent authority must provide a copy of the appointed person’s report.
- (5) The competent authority must serve the appellant with a written notice of its final decision and the reasons for making that decision.

Commencement Information

18 Reg. 16 in force at 3.4.2015, see **reg. 1(1)**

Changes to legislation:

There are currently no known outstanding effects for the The Alien and Locally Absent Species in Aquaculture (Scotland) Regulations 2015, PART 3.