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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations control the keeping and introduction of fish in inland waters. They provide that it is an offence to introduce any fish into inland waters, to keep certain types of fish (the fish that belong to a taxonomic order specified in Part 1 of the Schedule but are not of a species specified in Part 2 of the Schedule) in inland waters, or to keep of any kind of fish in protected areas where those fish would otherwise be absent, other than in accordance with a permit granted under these Regulations by the Environment Agency (regulations 4 and 5). The Environment Agency may attach conditions to permits to introduce fish or to keep fish and a list of purposes for which, or matters in relation to which, conditions may in particular be imposed is contained in regulation 6(4). The Regulations apply in relation to England, and in relation to so much of the catchment area of the River Esk as is in Scotland.

Regulation 3 excludes aquaculture production businesses from the scope of these regulations, including the transportation of fish between premises of one or more aquaculture production businesses. However, it does not exclude aquaculture production businesses from the requirement to have a permit to keep (otherwise than on the premises) fish or to introduce fish into inland waters.

Regulation 7 specifies the circumstances in which the Environment Agency may revoke, suspend or vary a permit.

Regulation 8 enables the Environment Agency to serve a notice on any person who is the owner or occupier of inland waters requiring that person to remove and dispose of fish, if the fish have been introduced into the water or kept in contravention of the Regulations. Paragraph (3) sets out the circumstances in which the Environment Agency may remove and dispose of fish without serving notice under paragraph (1). Paragraph (5) makes it a criminal offence not to comply with a notice under paragraph (1) without reasonable excuse.

Regulation 9 makes provision for the time at which a notice under regulation 7 or 8 takes effect.

Regulation 10 makes provision in relation to appeals by an applicant for a permit, or the holder of a permit or an owner or occupier of inland waters, who is the recipient of a notice under regulation 7 or 8.

Regulation 11 confers powers of entry on an authorised officer of the Environment Agency for the purposes of enforcing the Regulations. Regulation 12 sets out additional powers of an authorised officer, including the power to stop and detain any vehicle, and the power to carry out any search. Regulation 13 provides for certain offences relating to obstruction of a person acting in the execution of the Regulations.

Regulation 14 states that a person who is guilty of an offence under the Regulations is liable, on summary conviction, to a fine not exceeding £50,000, or on conviction on indictment to a fine which is unlimited. However, if section 85(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is in force on the day on which these Regulations are made, a fine imposed on summary conviction by a court in England will not be limited to £50,000.

Regulation 15 makes provision for offences by bodies corporate. The effect of paragraph (1) is that, in certain circumstances, a director or other similar person of a body corporate may be personally liable for an offence as well as the body corporate. Paragraph (2) makes provision for the recovery of fines imposed on a body corporate by a court in Scotland. Regulation 16 makes provision for offences committed (or alleged to have been committed) by partnerships, including Scottish partnerships, and unincorporated associations.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:  
*The Keeping and Introduction of Fish (England and River Esk Catchment Area) Regulations 2015 No. 10*

Regulation 17 provides that an existing licence in force under section 1 of the Import of Live Fish (England and Wales) Act 1980 is to be taken to be a permit under the Regulations.

Regulation 18 makes amendments to the Salmon and Freshwater Fisheries Act 1975, which are consequential upon these Regulations. Paragraph (1) reduces the scope of section 30 of that Act by limiting it to Wales, and paragraph (2) makes clear that section 39(1)(b) of the Act, which deals (among other things) with the application of the Act to the River Esk, does not apply to section 30.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available on the Defra website at [www.gov.uk](http://www.gov.uk) and is published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).