

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Part 1: Fish Farms and Shellfish Farms

Enforcement

Section 6 – Enforcement notices

16. Subsections (1) and (2) of section 6 provide that the Scottish Ministers may serve an enforcement notice on a person carrying on a business of fish farming in cases where they are satisfied that that person does not have in place satisfactory measures for the purposes of the prevention, control and reduction of parasites or the containment of fish, prevention of escape of fish, or recovery of escaped fish. Subsection (4) provides that such an enforcement notice may require the person on whom the enforcement notice is served to execute such works and take such other steps as Ministers consider necessary for the purposes of the prevention, control and reduction of parasites or the containment of fish, prevention of escape of fish, or recovery of escaped fish.
17. Subsection (3) provides that the Scottish Ministers may serve an enforcement notice on a person carrying on a business of shellfish farming in cases where they are satisfied that that person does not have in place satisfactory measures for the purpose of the prevention, control and reduction of parasites in respect of the shellfish farm. Subsection (5) provides that such an enforcement notice may require the person on whom the enforcement notice is served to execute such works and take such other steps as Ministers consider necessary for the purpose of the prevention, control and reduction of parasites.
18. Subsection (6) requires that an enforcement notice, whether served under subsection (1) or subsection (3), must specify the date by which the requirements specified in the enforcement notice must be fulfilled. Subsection (7) provides that a person on whom an enforcement notice has been served may appeal to the sheriff against the notice, by summary application made before the end of a 7 day period beginning with the day on which the notice is served. Subsection (8) provides that the sheriff may decide any appeal as the sheriff sees fit, and that the decision of the sheriff in the appeal is final. Subsection (9) provides that a person who contravenes an enforcement notice without reasonable excuse is guilty of an offence. Subsection (10) provides that a person who is found guilty of committing such an offence is liable to a fine not exceeding level 4 on the standard scale. This currently equates to a maximum fine of £2,500.
19. Subsection (11) provides that where the Scottish Ministers are satisfied that an enforcement notice is contravened in respect of the prevention, control and reduction of parasites they may authorise an inspector to take any action that Ministers consider necessary to fulfil the requirements of the enforcement notice. Subsection (12) provides

*These notes relate to the Aquaculture and Fisheries (Scotland)
Act 2007 (asp 12) which received Royal Assent on 5th April 2007*

for the recovery of expenses reasonably incurred by an inspector in taking action authorised by the Scottish Ministers to fulfil the requirements of the enforcement notice.

20. Subsection (13) permits the serving of an enforcement notice to be publicised as widely, in such manner and in such form as the Scottish Ministers think fit.