

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Part 1: Fish Farms and Shellfish Farms

Code of practice

Section 8 – Monitoring and enforcement: code of practice

23. Subsection (1) of section 8 imposes an obligation upon the Scottish Ministers to monitor compliance with any code approved by them under section 7.
24. Subsections (2) and (3) of section 8 provide that the Scottish Ministers may serve a notice on a person carrying on a business of fish farming or shellfish farming where they are satisfied that that person is not complying, or is not likely to comply, with a code approved under section 7 (Code of practice) in a material regard. Such a notice may require the person on whom the notice is served to execute such works and take such other steps as Ministers consider necessary for securing compliance with the approved code in any particular respect (subsection (4)).
25. Subsection (5) of section 8 applies the provisions of subsections (6) to (13) of section 6 (Enforcement notices) to a notice served under subsections (2) and (3) of section 8 in the same way as they apply to enforcement notices served under section 6. Accordingly, notices served under subsections (2) and (3) of section 8 must specify the date by which the requirements specified in them must be fulfilled (section 6(6), as applied); there is a right of appeal against a notice by summary application to the sheriff (section 6(7) and (8), as applied); a person who contravenes a notice served under subsection (2) or (3) of section 8 is guilty of an offence (section 6(9), as applied); a person who is found guilty of committing such an offence is liable to a fine not exceeding level 4 on the standard scale, which currently equates to a maximum fine of £2,500 (section 6(10), as applied); where the Scottish Ministers are satisfied that a notice served under subsection (2) or (3) of section 8 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 notice (section 6(11), as applied); expenses reasonably incurred by an inspector in taking action authorised by the Scottish Ministers to fulfil the requirements of such a notice may be recovered by the Scottish Ministers from the person upon whom the notice was served (section 6(12), as applied); the serving of a notice under subsection (2) or (3) of section 8 may be publicised as widely, in such manner and in such form as the Scottish Ministers think fit (section 6(13), as applied).