

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Part 2: *Gyrodactylus Salaris*: Containment and Treatment

Containment and treatment: additional powers

Section 15 – Creation of barriers to movement of fish, treatment of waters with chemical agents etc.

38. Section 15 inserts two new sections into the 1937 Act, conferring additional powers for the containment and eradication of the parasite *Gyrodactylus salaris*.
39. Inserted section 5A of the 1937 Act makes provision for the creation of barriers to the movement of fish. Subsection (1) of section 5A provides that the Scottish Ministers may arrange for the creation of barriers to the movement of fish in any inland waters (as defined in section 2ZB(6) of that Act) for the purposes of preventing the spread of the parasite *Gyrodactylus salaris* or of facilitating treatment with chemical agents with a view to eradicating the parasite from the waters concerned. The term ‘creation of barriers’ includes the closure or alteration of any means for the passage of salmon through, round or over dams, lades or water wheels. A barrier can prevent the spread of the parasite into waters lying upstream of the barrier by preventing the upstream migration of fish of species which might act as hosts for the parasite. In the case of chemical treatment (authorised by section 5B of the 1937 Act, which is also inserted by this section of the Act), the creation of a barrier would enable chemical treatment to be administered to a restricted part of a watercourse rather than having to be applied to the whole watercourse, the area downstream of a barrier being treated with chemical agents.
40. Subsection (2) of inserted section 5A of the 1937 Act provides that the power to arrange for the creation of barriers shall include power to maintain, dismantle and remove the barriers, and subsection (3) provides that the Scottish Ministers may purchase land compulsorily for the purpose of enabling them to create barriers. Compulsory purchase would follow the standard procedure set out in Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947. Paragraph 2 of the schedule to the Act amends section 1(1) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to provide for the application of schedule 1 of that Act to acquisitions under section 5A(3) of the 1937 Act.
41. Inserted section 5B of the 1937 Act provides for the Scottish Ministers to arrange for the treatment with chemical agents of any waters which have been designated by an order under section 2 of that Act (Power to designate areas) in relation to *Gyrodactylus salaris* with a view to eradicating the parasite. The power would be exercised only after consultation aimed at those who might be affected by the chemical treatment of the waters concerned, and after having obtained all necessary statutory permissions (for

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

instance under the Water Environment (Controlled Activities) (Scotland) Regulations
2005).