



Aquaculture and Fisheries (Scotland) Act 2007

2007 asp 12

PART 2

GYRODACTYLUS SALARIS: CONTAINMENT AND TREATMENT

Order under section 2 of the 1937 Act: additional powers

13 Order under section 2 of the 1937 Act: additional powers

After section 2 of the 1937 Act (power to designate areas), insert—

“Gyrodactylus salaris: additional powers when designating area under section 2

2ZA An order by the Scottish Ministers under section 2 designating an area (“the designated area”) may, where they suspect that the waters are or may become infected waters by reason of the presence of the parasite *Gyrodactylus salaris*—

- (a) prohibit the taking into or out of the designated area, by any person who is not an inspector or other person exercising functions by arrangement with the Scottish Ministers in relation to this Act, of—
 - (i) any vehicle (or any vehicle of such description as may be specified in the order);
 - (ii) such equipment, material or substance (not falling within section 2(2)(a)) as may be so specified, unless the vehicle, equipment, material or substance concerned, immediately before the taking in or as the case may be out, has been subjected to such process of disinfection as may be so specified;
- (b) prohibit or regulate the taking into or out of the designated area of dead fish;
- (c) regulate entry to or exit from the designated area.”.

Preliminary designation of area by order

14 Preliminary designation of area by order

After section 2ZA of the 1937 Act (as inserted by section 13 above), insert—

“Preliminary designation of area: Gyrodactylus salaris

2ZB (1) If at any time the Scottish Ministers have reasonable grounds for suspecting that any of the inland waters of the United Kingdom or the marine waters adjacent to the United Kingdom are infected waters by reason of the presence of the parasite *Gyrodactylus salaris*, they may by order made by statutory instrument designate such part (or all) of—

- (a) the inland waters of Scotland;
- (b) the marine waters adjacent to Scotland,

as they consider appropriate.

(2) An order under subsection (1) may also—

- (a) prohibit or regulate the taking into or out of the area designated in the order of such of the following (or of such description of them) as may be specified in the order—

- (i) live fish;
- (ii) live eggs of fish;
- (iii) foodstuff for fish;

- (b) regulate the movement within the area of such of those things (or of such description of them) as may be specified in the order,

until the expiry of the period of 30 days beginning with the day the order is made.

(3) Where an order under subsection (1) (a “first order”) is made, and the Scottish Ministers consider it appropriate to do so, they may by order made by statutory instrument before the expiry of the period of 30 days specified in the first order extend the period to 60 days; and if they do so, any provision in the first order which does any of the matters referred to in paragraph (a) or (b) of subsection (2) applies until the expiry of the period of 60 days beginning with the day the first order was made.

(4) A statutory instrument containing an order under subsection (1) or (3) is to be laid before the Scottish Parliament after it is made.

(5) Any person who intentionally contravenes any provision of an order under subsection (1) or (3) is guilty of an offence.

(6) In subsection (1)—

“inland waters” means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows;

“marine waters adjacent to the United Kingdom” means waters (other than inland waters) within the seaward limits of the territorial sea adjacent to the United Kingdom;

“marine waters adjacent to Scotland” means so much of the marine waters adjacent to the United Kingdom as are adjacent to Scotland.”.

Containment and treatment: additional powers

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

After section 5 of the 1937 Act (duty to examine waters on demand of fishery board or occupier), insert—

“Gyrodactylus salaris: creation of barriers to movement of fish

- 5A (1) The Scottish Ministers may arrange for the creation of barriers to the movement of fish in any inland waters in Scotland where they consider it appropriate to do so for either or both of the following purposes—
- (a) to prevent the spread of the parasite *Gyrodactylus salaris*;
 - (b) to facilitate treatment with chemical agents with a view to eradicating the parasite from the waters concerned.
- (2) Where the Scottish Ministers arrange for the creation of a barrier in pursuance of subsection (1), they may arrange for the—
- (a) maintenance;
 - (b) dismantling;
 - (c) removal,
- of the barrier.
- (3) If the Scottish Ministers are satisfied that it is appropriate to do so for the purpose of enabling them to exercise their power under subsection (1), they may purchase land in Scotland compulsorily.
- (4) In subsection (1), “inland waters” has the same meaning as in section 2ZB(6).

Gyrodactylus salaris: treatment of waters with chemical agents

- 5B (1) The Scottish Ministers may, where they consider it appropriate to do so, arrange for the treatment with chemical agents of any waters mentioned in subsection (2) with a view to eradicating the parasite *Gyrodactylus salaris*.
- (2) The waters are any waters in an area designated by order under section 2 by virtue of the Scottish Ministers suspecting that they are or may become infected waters by reason of the presence of the parasite *Gyrodactylus salaris*.”.

16 Clearance of certain fish farms

After section 5B of the 1937 Act (as inserted by section 15 above), insert—

“5C Clearance of certain fish farms

- (1) The Scottish Ministers may, where they consider it appropriate to do so, by notice in writing served on any person who carries on a business of fish farming in any inland or marine waters mentioned in subsection (2), impose any of the requirements mentioned in subsection (3).

Status: This is the original version (as it was originally enacted).

- (2) The waters are any inland or marine waters in an area designated by order under section 2 by virtue of the Scottish Ministers suspecting that they are or may become infected waters by reason of the presence of the parasite *Gyrodactylus salaris*.
- (3) The requirements referred to in subsection (1) are—
 - (a) the withdrawal of all fish from the waters of the farm;
 - (b) the draining, cleaning and disinfection of all pools and cages in the farm;
 - (c) the destruction of all—
 - (i) dead fish;
 - (ii) live fish withdrawn from the farm which show clinical signs of the disease known as gyrodactylosis caused by the parasite *Gyrodactylus salaris*;
 - (iii) live fish withdrawn from the farm which show signs of the presence of the parasite;
 - (d) the cleaning and disinfection or destruction of equipment, material or substances liable to be contaminated with the parasite;
 - (e) that the repopulation of the farm may take place only when the Scottish Ministers authorise it by notice in writing served on the person carrying on the business of the farm.
- (4) Any person who intentionally contravenes any requirement of a notice served on the person under subsection (1) is guilty of an offence.

**5D Failure to comply with requirements of notice under section 5C(1):
 inspector's powers**

- (1) If any person on whom notice under section 5C(1) is served fails to comply with any requirement of the notice, without prejudice to any proceedings in relation to such failure, an inspector may enter on the fish farm to which the notice relates and take or arrange the taking of such steps as appear to the inspector to be necessary to—
 - (a) ensure compliance with the requirement;
 - (b) remedy the consequences of a failure to comply.
- (2) An inspector acting under subsection (1) must, if required, produce evidence of the inspector's authority.
- (3) All reasonable costs of the exercise of an inspector's powers under subsection (1) are recoverable by the Scottish Ministers from the person on whom the notice under section 5C(1) was served.”.

17 Gyrodactylus salaris: Scottish Ministers' powers to take other measures

After section 5D of the 1937 Act (as inserted by section 16 above), insert—

“Gyrodactylus salaris: Scottish Ministers' powers to take other measures

- 5E (1) The Scottish Ministers may take such other measures as they consider appropriate for the purpose of eradicating or preventing or limiting the spread of the parasite *Gyrodactylus salaris* in—
- (a) inland waters in Scotland;
 - (b) marine waters adjacent to Scotland.
- (2) In subsection (1), “inland waters” and “marine waters adjacent to Scotland” have the same meanings as in section 2ZB(6).”.

18 Gyrodactylus salaris: Scottish Ministers' power to make payments

After section 5E of the 1937 Act (as inserted by section 17 above), insert—

“Gyrodactylus salaris: Scottish Ministers' power to make payments

- 5F (1) The Scottish Ministers may, in accordance with a scheme made by them by order, make payments in respect of such matters, as may be specified by them by order, in consequence of the exercise of their powers under section 5A, 5B, 5C or 5E.
- (2) But payments under subsection (1) may not be made in relation to fish destroyed in pursuance of the exercise of those powers.
- (3) An order under subsection (1) may, in particular, include provision—
- (a) regulating applications for, and the method of payment of, any amount payable by virtue of this section;
 - (b) as to the amount payable and the basis on which those amounts are ascertained;
 - (c) as to conditions that must be met for payments to be made;
 - (d) as to circumstances where payments may not be made.
- (4) An order under subsection (1) may make different provision for different purposes.
- (5) An order under subsection (1) shall be made by statutory instrument, and no order shall be made unless a draft of the order has been laid before, and approved by resolution of, the Scottish Parliament.”.