

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Part 2: *Gyrodactylus Salaris*: Containment and Treatment

Preliminary designation of area by order

Section 14 – Preliminary designation of area by order

33. Section 2 of the 1937 Act permits an order to be made only in relation to waters which the Scottish Ministers have reasonable grounds for suspecting are, or may become, infected waters. Section 14 inserts section 2ZB into the 1937 Act immediately after section 2ZA (inserted by section 13 of the Act). Section 2ZB(1) provides that if at any time the Scottish Ministers have reasonable grounds for suspecting that any of the inland waters of, or marine waters adjacent to, the United Kingdom (the terms “inland waters” and “marine water adjacent to the United Kingdom” are defined for the purposes of section 2ZB(1) in section 2ZB(6)) are “infected waters” (as that term is defined in section 10 of the 1937 Act) by reason of the presence of the parasite *Gyrodactylus salaris*, they may by order made by statutory instrument designate such part, or all, of the inland waters of Scotland and the marine waters adjacent to Scotland (as defined by section 2ZB(6)) as they consider appropriate. The power is triggered where the Scottish Ministers have reasonable grounds for suspecting that any of the marine or inland waters of the United Kingdom are “infected waters” by reason of the presence of the parasite *Gyrodactylus salaris*, and does not require that they have grounds to believe that the particular Scottish waters to be designated are at specific risk of infection. The purpose of a designation under section 2ZB(1) is to impose temporary measures to limit the spread of infection while the scale of any outbreak, and thus the need for designations under section 2 of the 1937 Act, can be assessed. So, were the Scottish Ministers to learn of a suspected outbreak of *Gyrodactylus salaris* in waters in England, for example, they would be able to use section 2ZB(1) to impose restrictions upon Scottish waters while the scale of the outbreak was investigated.
34. Section 2ZB(2) provides that an order under section 2ZB(1) designating an area may also prohibit or regulate the taking into or out of the area designated such live fish, live fish eggs and foodstuff of fish (or such description of those things) as may be specified in the order and regulate the movement within the area designated of such of those things (or description of things) as may be specified in the order until the expiry of the period of thirty days from the day the order was made.
35. Section 2ZB(3) provides for the making of a further order, before the expiry of the thirty day period relating to an order under section 2ZB(1), extending the effect of the first order for a further period of thirty days from the day upon which it would otherwise have ceased to have effect.

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

36. Section 2ZB(4) provides that such orders, whether made under section 2ZB(1) or (3) are to be made by statutory instrument which is to be laid before the Scottish Parliament.
37. Section 2ZB(5) makes it an offence for any person to intentionally contravene any provision of an order made under either section 2ZB(1) or (3).