
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 335

AQUACULTURE

**The Alien and Locally Absent Species in
Aquaculture Regulations (Northern Ireland) 2012**

Made - - - - *7th September 2012*

Coming into operation *15th October 2012*

The Department of Agriculture and Rural Development is a department designated (1) for the purposes of section 2(2) of the European Communities Act 1972 (2) in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in that section and it appears to the Department that it is expedient for any reference in these Regulations to Annex IV to Council Regulation (EC) No 708/2007(3) concerning use of alien and locally absent species in aquaculture to be construed as a reference to that Annex as amended from time to time.

The Department of Agriculture and Rural Development, in exercise of the powers conferred by sections 2(2) of, as read with paragraph 1A of Schedule 2(d), of the European Communities Act 1972(4), makes the following Regulations.

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012 and come into operation on 15th October 2012.

(1) [S.I. 2000/2812](#)

(2) [1972 c.68](#): section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 ([c.51](#)) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 ([c.7](#))

(3) O.J. No L 168, 28.6.2007, p.1, as amended by [Commission Regulation \(EC\) No 506/2008](#) (O.J. No L 149, 7.6.2008, p.36) and Regulation (EU) No 304/2011 of the European Parliament and of the Council (O.J. No L88, 4.4.2011, p.1)

(4) Paragraph 1(A) of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Act 2006([c.51](#))

Commencement Information

I1 [Reg. 1](#) in operation at 15.10.2012, see [reg. 1](#)

Interpretation

2.—(1) Subject to regulations 22(1) and 26(1), the Interpretation Act (Northern Ireland) 1954 **(5)** applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

“an Annex IV species” means any species listed in Annex IV to Council Regulation 708/2007, as amended from time to time;

“aquaculture facility” includes an open and a closed aquaculture facility;

“contravention” includes a failure to comply;

“Council Regulation 708/2007” means Council Regulation [\(EC\) No 708/2007](#) concerning use of alien and locally absent species in aquaculture, as last amended by Regulation (EU) No 304/2011 of the European Parliament and of the Council;

“the Department” means the Department of Agriculture and Rural Development;

“inspector” means a person appointed to be an inspector for the purposes of these Regulations by the Department;

“Northern Ireland” has the meaning given in section 98(1) of the Northern Ireland Act 1998**(6)**;

“notice” means notice in writing;

“permit” means a permit granted by the Department under Council Regulation 708/2007.

(3) Expressions used in these Regulations which are also used in Council Regulation 708/2007 have the same meaning as they have in that Council Regulation.

Commencement Information

I2 [Reg. 2](#) in operation at 15.10.2012, see [reg. 1](#)

Designation of Department as competent authority

3. The Department is designated the competent authority for the purposes of Article 5 of Council Regulation 708/2007.

Commencement Information

I3 [Reg. 3](#) in operation at 15.10.2012, see [reg. 1](#)

(5) [1954 c.33 \(N.I.\)](#)

(6) [1998 c.47 \(N.I.\)](#)

PART 2

MOVEMENTS

Requirement for permit to introduce alien species or translocate locally absent species

4.—(1) It is an offence for a person to undertake the introduction of an alien species or the translocation of a locally absent species except under, and in accordance with the conditions of, a permit.

(2) Paragraph (1) does not apply in relation to –

- (a) the movement of an Annex IV species; or
- (b) the translocation of a locally absent species within Northern Ireland ^{F1}...if the Department has served notice under regulation 8(2) on the person undertaking the translocation that a permit is not required for the translocation.

F1 Words in [reg. 4\(2\)\(b\)](#) omitted (31.12.2020) by virtue of [The Alien and Locally Absent Species \(Aquaculture\) \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/333\)](#), [regs. 1\(1\), 2\(2\)](#)

Commencement Information

I4 [Reg. 4](#) in operation at 15.10.2012, see [reg. 1](#)

Permits

5.—(1) A permit shall be in writing and may be granted subject to such conditions as the Department considers appropriate.

(2) A permit shall specify -

- (a) the unique reference number assigned to the permit;
- (b) the species to which it applies;
- (c) the aquaculture facility into which the movement is permitted;
- (d) the duration of the permit;
- (e) the monitoring period where the Department considers that a monitoring period longer than the period of two years laid down in Article 18.1 of Council Regulation 708/2007 is required.

(3) If the Department refuses to grant a permit or grants it subject to conditions, it shall, by notice served on the applicant,

- (a) give the reasons for its decision; and
- (b) inform the applicant of the right of appeal under regulation 20.

Commencement Information

I5 [Reg. 5](#) in operation at 15.10.2012, see [reg. 1](#)

Notifying movement of Annex IV species or translocation of locally absent species

6.—(1) This regulation applies in relation to—

- (a) the proposed movement of an Annex IV species;

(b) the proposed translocation of a locally absent species within Northern Ireland^{F2}....

(2) Subject to paragraph (5), a person proposing to undertake a movement or translocation shall give notice of the proposed movement or translocation to the Department.

(3) An application for an authorisation to operate an aquaculture production business under the Aquatic Animal Health Regulations (Northern Ireland) 2009 (7) in respect of an Annex IV species or a locally absent species or an application for the amendment of such an authorisation in so far as it relates to the proposed movement of an Annex IV species or the translocation of a locally absent species is notice for the purposes of paragraph (2).

(4) A person who gives, or by virtue of paragraph (3) is deemed to have given, notice under paragraph (2) in respect of the proposed movement of an Annex IV species shall not undertake the movement except under, and in accordance with the conditions of, a notice served by the Department under regulation 7(2)(b) or (3)(b).

(5) Paragraph (2) does not apply to subsequent movements of the same Annex IV species or translocations of the same locally absent species as notified to the Department under paragraph (2) which are undertaken by the same person to the same aquaculture facility if –

- (a) the movements have previously been permitted by the Department by notice served under regulation 7(2)(b) or (3)(b); or
- (b) the Department has previously served notice under regulation 8(2) that a permit is not required for the translocations.

(6) It is an offence for a person to contravene paragraph (2) or (4).

F2 Words in [reg. 6\(1\)\(b\)](#) omitted (31.12.2020) by virtue of [The Alien and Locally Absent Species \(Aquaculture\) \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/333\)](#), [regs. 1\(1\), 2\(2\)](#)

Commencement Information

I6 [Reg. 6](#) in operation at 15.10.2012, see [reg. 1](#)

Movement of Annex IV species

7.—(1) This regulation applies where the Department has received notice of the proposed movement of an Annex IV species under regulation 6(2).

(2) The Department shall serve notice on the person proposing to undertake the movement —

- (a) prohibiting the movement;
- (b) permitting the movement, and any subsequent movement of the same species undertaken by that person to the same aquaculture facility, subject to any conditions specified in the notice; or
- (c) requiring the person, at their own cost, to submit an environmental risk assessment carried out in accordance with Article 9(1) of Council Regulation 708/2007.

(3) After considering any environmental risk assessment required under paragraph (2)(c), the Department shall serve notice on the person proposing to undertake the movement—

- (a) prohibiting the movement; or
- (b) permitting the movement, and any subsequent movement of the same species undertaken by that person to the same aquaculture facility, subject to any conditions specified in the notice.

- (4) A notice served under paragraph (2)(b) or (3)(b) shall specify —
 - (a) the unique reference number assigned to the notice;
 - (b) the species to which it applies;
 - (c) the aquaculture facility into which the movement is permitted; and
 - (d) the duration of the notice.
- (5) A notice served under paragraph (2)(a) or (b) or (3) shall –
 - (a) give the reasons for the decision; and
 - (b) inform the person on whom the notice is served of the right of appeal under regulation 20.

Commencement Information

17 [Reg. 7](#) in operation at 15.10.2012, see [reg. 1](#)

Translocation of locally absent species

8.—(1) This regulation applies where the Department has received notice of the proposed translocation of a locally absent species under regulation 6(2).

(2) The Department shall serve notice on the person proposing to undertake the translocation informing the person whether, for the purposes of Article 2(2) of Council Regulation 708/2007, there are grounds for foreseeing environmental threats due to the proposed translocation.

- (3) A notice served under paragraph (2) shall —
 - (a) state whether a permit is required for the translocation; and
 - (b) if a permit is required –
 - (i) give the reasons for the decision; and
 - (ii) inform the person on whom the notice is served of the right of appeal under regulation 20.

Commencement Information

18 [Reg. 8](#) in operation at 15.10.2012, see [reg. 1](#)

Environmental risk assessment

9. An environmental risk assessment carried out under Article 9(1) of Council Regulation 708/2007 shall be produced at the applicant's own cost.

Commencement Information

19 [Reg. 9](#) in operation at 15.10.2012, see [reg. 1](#)

Contingency plan

10.—(1) A contingency plan drawn up under Article 17 of Council Regulation 708/2007 shall be —

- (a) produced at the applicant's own cost; and
- (b) approved by the Department in writing.

(2) It is an offence for a person to fail to implement an approved contingency plan immediately upon the occurrence of an event specified in the plan.

Commencement Information

I10 Reg. 10 in operation at 15.10.2012, see **reg. 1**

Monitoring

11.—(1) This regulation applies where monitoring is required under Article 18 or 22 of Council Regulation 708/2007.

(2) The applicant shall submit to the Department for approval a programme detailing how the monitoring will be carried out.

(3) A monitoring programme shall be approved by the Department in writing.

(4) An approved monitoring programme shall be carried out, at the applicant's own cost,—

(a) by the applicant; or

(b) where the Department determines that the applicant does not have the expertise, by a person nominated by the applicant and approved in writing by the Department.

Commencement Information

I11 Reg. 11 in operation at 15.10.2012, see **reg. 1**

PART 3

ENFORCEMENT, PENALTIES AND APPEALS

Entry and inspection of premises

12.—(1) For the purposes of enforcing Council Regulation 708/2007 or these Regulations, an inspector may, on producing, if so required, some duly authenticated document showing the inspector's authority, enter and inspect any premises at any reasonable hour.

(2) But an inspector may not enter any premises which are used wholly or mainly as a private dwelling-house unless –

(a) 24 hours' notice of the intended entry has been given to the occupier; or

(b) a lay magistrate has issued a warrant under this regulation authorising the inspector to enter the dwelling.

(3) A lay magistrate may issue a warrant authorising an inspector to enter any premises, if necessary by reasonable force, if the lay magistrate is satisfied, on complaint on oath, –

(a) that there are reasonable grounds to enter the premises for a purpose mentioned in paragraph (1); and

(b) that any of the conditions in paragraph (4) is met.

(4) The conditions are –

(a) that admission to the premises has been, or is likely to be, refused and (in either case) notice of the intention to apply for a warrant has been given to the occupier;

- (b) that asking for admission to the premises, or the giving of such notice, would defeat the object of the entry;
- (c) that entry to the premises is required urgently; or
- (d) that the premises are unoccupied or the occupier is temporarily absent.

(5) A warrant issued under paragraph (3) shall continue in force for one month or, if sooner, until the purpose for which it was issued has been fulfilled.

[^{F3}(6) An inspector entering any premises may be accompanied by such persons, and may enter with such equipment or vehicle, as the inspector considers necessary for the purposes of these Regulations.]

(7) An inspector entering any premises which are unoccupied, or from which the occupier is temporarily absent, shall leave them as effectively secured against unauthorised entry as the inspector found them.

- (8) In this regulation “premises” includes any land or place and, in particular, includes—
- (a) any vessel, vehicle or trailer;
 - (b) any installation, container or receptacle.

F3 Reg. 12(6) substituted (31.12.2020) by *The Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/581)*, regs. 1(1), 3; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I12 Reg. 12 in operation at 15.10.2012, see **reg. 1**

Search and examination of items on premises

13. Subject to regulation 16, an inspector entering any premises under regulation 12 may—
- (a) search the premises for any item, including any aquatic organism or water;
 - (b) examine anything that is—
 - (i) on the premises;
 - (ii) attached to, or otherwise forms part of, the premises.

Commencement Information

I13 Reg. 13 in operation at 15.10.2012, see **reg. 1**

Production of documents

14. Subject to regulation 16, an inspector entering any premises under regulation 12 may require any person on the premises to —

- (a) produce any document or record that is in the person’s possession or control;
- (b) render any such document or record on a computer system into a visible and legible form, including requiring it to be produced in a form in which it may be taken away.

Commencement Information

I14 Reg. 14 in operation at 15.10.2012, see **reg. 1**

Seizure of items

15.—(1) Subject to regulation 16, this regulation applies where an inspector exercises a power conferred by regulation 13 or 14.

(2) An inspector may—

- (a) seize, detain or remove any item found on the premises;
- (b) take copies of, or extracts from, any document or record found on the premises.

(3) The power conferred by paragraph (2)(a) is to be construed as including power to take samples of any aquatic organism or water.

(4) An inspector, to whom any document or record has been produced in accordance with a requirement imposed under regulation 14, may—

- (a) seize, detain or remove that document or record;
- (b) take copies of, or extracts from, that document or record.

(5) If, in the opinion of the inspector, it is not for the time being practicable for the inspector to seize and remove any item, the inspector may require any person on the premises to secure that the item is not removed or otherwise interfered with until such time as the inspector may seize and remove it.

(6) Any aquatic organism or water seized by an inspector may be disposed of as the inspector sees fit.

(7) It is an offence for a person to fail to comply with a requirement imposed under paragraph (5).

Commencement Information

I15 [Reg. 15](#) in operation at 15.10.2012, see [reg. 1](#)

Enforcement powers

16. The powers conferred by regulations 13, 14 and 15 may only be exercised—

- (a) for the purpose of determining whether an offence under these Regulations has been committed; or
- (b) in relation to an item, document or record which an inspector reasonably believes to be evidence of the commission of an offence under these Regulations.

Commencement Information

I16 [Reg. 16](#) in operation at 15.10.2012, see [reg. 1](#)

Enforcement notices

17.—(1) The Department may serve an enforcement notice on any person who it considers has contravened Council Regulation 708/2007 or these Regulations.

(2) The Department may serve an enforcement notice on the operator of an aquaculture facility if it considers that any aquatic organism present in the aquaculture facility was moved in contravention of Council Regulation 708/2007 or these Regulations or any condition of a permit or a notice served under regulation 7(2)(a) or (b) or (3).

(3) An enforcement notice shall—

- (a) state the matters constituting the contravention;

- (b) specify the steps which the operator is required to take to remedy the contravention;
 - (c) state the date by which those steps shall be taken; and
 - (d) inform the operator of the right of appeal under regulation 20.
- (4) An enforcement notice may require the operator on whom it is served to—
- (a) remove and dispose of any aquatic organism, at their own cost, in a manner and within the period specified in the notice; and
 - (b) take steps to ensure that the aquaculture facility is, so far as possible, restored to its condition prior to the contravention.
- (5) If an enforcement notice is not complied with, the Department may—
- (a) take such steps as it considers necessary (including the removal and disposal of the aquatic organism) to —
 - (i) ensure compliance with the requirements of the notice; or
 - (ii) remedy the consequences of the failure to carry them out; and
 - (b) recover any expenses reasonably incurred in so doing from the person who has failed to comply with the enforcement notice.
- (6) An enforcement notice does not take effect until 21 days after it is served.
- (7) The Department may remove and dispose of any aquatic organisms without serving an enforcement notice —
- (a) in an emergency; and
 - (b) at the cost of the operator.
- (8) Except where regulation 20 (7) applies, it is an offence for a person to fail to comply with an enforcement notice.
- (9) In this regulation “operator” means any person who is responsible for the management of the aquaculture facility.

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Commencement Information

117 [Reg. 17](#) in operation at 15.10.2012, see [reg. 1](#)

Recovery of expenses of enforcement

18.—(1) This regulation applies where a court convicts a person of an offence under regulation 17(8) or 21 (b).

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person to reimburse the Department for any expenditure which the Department has incurred under regulation 17(5) or (7).

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Commencement Information

118 [Reg. 18](#) in operation at 15.10.2012, see [reg. 1](#)

Amendment, suspension or revocation of permit or notice

19.—(1) This regulation applies in relation to –

- (a) a permit; or

- (b) a notice served under regulation 7(2)(b) or (3)(b).
- (2) The Department may—
- (a) amend a permit or notice, including any condition of a permit or notice; or
 - (b) suspend or revoke a permit or notice if it is satisfied that any condition of the permit or notice or any provision of Council Regulation 708/2007 or these Regulations has been or is being contravened.
- (3) An amendment under paragraph (2)(a) may be made –
- (a) on the initiative of the Department; or
 - (b) on application in writing by the permit or notice holder in such form and containing such information as the Department may reasonably require.
- (4) Where the Department amends, suspends or revokes a permit or notice under paragraph (2) (a) or (b) or, in the case of an application under paragraph (3)(b), refuses an application for the amendment of a permit or notice, it shall, by notice served on the permit or notice holder —
- (a) in the case of an amendment, specify the amendment;
 - (b) give the reasons for the amendment, suspension, revocation or the refusal;
 - (c) state the date on which the amendment, suspension or revocation is to take effect and, in the case of a suspension, the date or event on which the suspension will cease to have effect;
 - (d) except in the case of an amendment made on the application of the permit or notice holder, inform the permit or notice holder of the right of appeal under regulation 20.
- (5) In the case of a suspension or revocation, a notice served under paragraph (4) may make provision requiring the removal and disposal of any aquatic organism to which the permit or notice relates in such manner as may be specified in the notice.
- (6) Except where regulation 20(7) applies, it is an offence for a person to fail to comply with –
- (a) a notice suspending a permit or notice served under paragraph (4); or
 - (b) any requirement for the removal and disposal of any aquatic organism imposed by a notice served under paragraph (4).
- (7) Where the Department considers that any requirement imposed by a notice under paragraph (4) has not been complied with, the Department may, without prejudice to any proceedings under paragraph (6)—
- (a) take, or cause to be taken, such steps as the Department considers necessary to—
 - (i) ensure compliance with the requirement; or
 - (ii) remedy the consequences of the failure to comply with the requirement; and
 - (b) recover any expenses reasonably incurred in so doing from the permit or notice holder.
- (8) In this regulation “notice holder” means the person on whom the notice was served under regulation 7(2)(b) or (3)(b).

Commencement Information

I19 [Reg. 19](#) in operation at 15.10.2012, see [reg. 1](#)

Appeals

20.—(1) A person (“the appellant”) may appeal to the Department against any of the following notices —

- (a) a notice served under regulation 5(3);

- (b) a notice served under regulation 7(2)(a), (2)(b) or (3);
 - (c) a notice served under regulation 8(2);
 - (d) an enforcement notice served under regulation 17(1) or (2);
 - (e) a notice served under regulation 19(4).
- (2) An appellant may, within 21 days from the date on which the notice was issued,—
- (a) make written representations to the Department; or
 - (b) serve notice on the Department that the appellant wishes to appear before and be heard by an independent person appointed for the purpose by the Department.
- (3) Where an appellant makes written representations under paragraph (2)(a) the Department shall appoint an independent person to consider the representations and report in writing to the Department.
- (4) Where an appellant serves notice under paragraph (2)(b)—
- (a) the Department shall appoint an independent person to hear representations and specify a time limit within which representations to that person shall be made;
 - (b) if the appellant so requests, the hearing before the appointed person shall be in public;
 - (c) the appointed person shall consider the representations and report in writing to the Department.
- (5) If the appellant so requests, the Department shall provide a copy of the appointed person's report to the appellant.
- (6) The Department shall, after considering the report, serve notice of its final decision and the reasons for it on the appellant.
- (7) Where an appeal is made against any notice listed in paragraph (8), the notice shall not have effect pending the final decision of the Department or the withdrawal of the appeal.
- (8) The notices are —
- (a) a notice served under regulation 19(4) suspending or revoking –
 - (i) a permit; or
 - (ii) a notice served under regulation 7(2)(b) or (3)(b);
 - (b) an enforcement notice served under regulation 17(1) or (2).
- (9) But paragraph (7) does not apply where the notice includes a statement that in the opinion of the Department there is an imminent risk of adverse effects to biodiversity or an imminent threat to aquatic organisms, habitats or ecosystems.
- (10) The Department shall pay an amount equal to the loss suffered or expenditure reasonably incurred by the person on whom the notice was served if —
- (a) a notice to which paragraph (7) does not apply by virtue of paragraph (9) is varied or withdrawn by the Department on appeal; and
 - (b) that person has complied with the notice.

Commencement Information

I20 [Reg. 20](#) in operation at 15.10.2012, see [reg. 1](#)

Offences

21. It is an offence for a person —

- (a) for the purpose of procuring the grant or amendment of a permit, -
 - (i) to make a statement which that person knows or suspects is false or misleading in a material particular; or
 - (ii) intentionally to fail to disclose any material particular;
- (b) to abandon or allow to escape any aquatic organism, the movement of which took place under a permit or under a notice served under regulation 7(2)(b) or (3)(b) (movement of an Annex IV species) unless the person can show that all reasonable steps were taken and due diligence exercised to avoid the abandonment or escape;
- (c) to fail, without reasonable cause, to give an inspector any assistance or information which the inspector may reasonably require for the purposes of the inspector's functions under these Regulations;
- (d) intentionally to obstruct an inspector; or
- (e) knowingly to give false or misleading information to an inspector.

Commencement Information

I21 [Reg. 21](#) in operation at 15.10.2012, see [reg. 1](#)

Offences by corporate bodies, partnerships and unincorporated associations

22.—(1) In its application to these Regulations, section 20 of the Interpretation Act (Northern Ireland) 1954 (offences by bodies corporate) has effect as if –

- (a) in subsection (2) the words “the liability of whose members is limited” were omitted and where the affairs of a body corporate are managed by its members, as if, in relation to the acts or defaults of a member in connection with the member's functions of management, the member were a director of the body corporate;
- (b) subsection (3) was omitted.

(2) If any offence under these Regulations committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) If any offence under these Regulations committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association or a member of its governing body, that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) In paragraph (2) “partner” includes a person purporting to act as a partner.

Commencement Information

I22 [Reg. 22](#) in operation at 15.10.2012, see [reg. 1](#)

Penalties

23. A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

Commencement Information

I23 Reg. 23 in operation at 15.10.2012, see [reg. 1](#)

PART 4

MISCELLANEOUS

Application to the Crown

24.—(1) Subject to the provisions of this regulation, these Regulations bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of these Regulations shall make the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), these Regulations apply to a person in the public service of the Crown as they apply to any other person.

(4) In this regulation any reference to the Crown includes a reference to the Crown in right of Her Majesty's Government in Northern Ireland.

Commencement Information

I24 Reg. 24 in operation at 15.10.2012, see [reg. 1](#)

Disclosure of information

25.—(1) For the purposes of Council Regulation 708/2007, these Regulations or the equivalent regulations in England, Scotland or Wales, the Department may disclose information received by it in the administration or enforcement of Council Regulation 708/2007 or these Regulations to –

- (a) the equivalent competent authority in England, Scotland, Wales or [^{F4}a] member State;
- (b) the Department of the Environment;
- (c) the Department of Culture, Arts and Leisure;
- (d) the Loughs Agency;
- (e) the Agri-Food and Biosciences Institute.

(2) In paragraph (1)(d) the “Loughs Agency” means the executive agency through which the Foyle, Carlingford and Irish Lights Commission exercises its functions under the Foyle Fisheries Act (Northern Ireland) 1952 (**8**).

F4 Word in [reg. 25\(1\)\(a\)](#) substituted (31.12.2020) by [The Agriculture, Animals and Aquaculture \(Health, Identification, Welfare, Trade etc.\) \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/324\)](#), [regs. 1\(3\), 23](#)

Commencement Information

I25 [Reg. 25](#) in operation at 15.10.2012, see [reg. 1](#)

Service of notices

26.—(1) In its application to these Regulations, section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents by post) has effect as if the word “registering” were omitted.

(2) Any notice required to be served under these Regulations may be served on a person by means of electronic communication if –

- (a) the person has consented to the use of that form of communication and has provided an electronic address for that purpose;
- (b) the consent has not been withdrawn; and
- (c) the communication is sent to the address provided.

(3) Where electronic communication is used for the purpose of serving a notice, then, unless the contrary is proved, the notice is deemed to have been served on the day and at the time recorded by the transmitting apparatus as being the day and time of satisfactory completion of the transmission.

(4) In this regulation “electronic communication” has the meaning given in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001 (**9**).

Commencement Information

I26 [Reg. 26](#) in operation at 15.10.2012, see [reg. 1](#)

Amendment of the Molluscan Shellfish (Control of Deposit) Order (Northern Ireland) 1972

27.—(1) The Molluscan Shellfish (Control of Deposit) Order (Northern Ireland) 1972 (**10**) is amended in accordance with paragraph (2).

(2) For article 4 (exemption) substitute–

“Exception

4. The prohibition in article 3 shall not apply to any molluscan shellfish which is introduced under –

- (a) a permit issued under Council Regulation ([EC](#)) [No 708/2007](#) concerning use of alien and locally absent species in aquaculture; or
- (b) a notice issued under regulation 7(2)(b) or (3)(b) of the Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012.”.

Commencement Information

I27 [Reg. 27](#) in operation at 15.10.2012, see [reg. 1](#)

(9) [2001 c.9 \(N.I.\)](#). Section 4(1) was amended by paragraph 170 of Schedule 17 to the Communications Act [2003 c.21](#)

(10) [S.R. & O. \(N.I.\) 1972 No.9](#)

Amendment of the Prohibition of Introduction of Fish Order (Northern Ireland) 1979

28.—(1) The Prohibition of Introduction of Fish Order (Northern Ireland) 1979 (**11**) is amended in accordance with paragraphs (2) and (3) ;

(2) In article 3 (prohibition) the words “, excluding the Londonderry Area,” are omitted.

(3) After article 3 insert—

“Exception

3A. The prohibition in article 3 does not apply to any species of live fish or Crayfish which is introduced under —

- (a) a permit issued under Council Regulation (EC) No 708/2007 concerning use of alien and locally absent species in aquaculture; or
- (b) a notice issued under regulation 7(2)(b) or (3)(b) of the Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012.”.

Commencement Information

I28 Reg. 28 in operation at 15.10.2012, see [reg. 1](#)

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 7th September 2012

(L.S.)

John Speers
A senior officer of the
Department of Agriculture and Rural
Development

Changes to legislation: There are currently no known outstanding effects for the The Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012. (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Regulation (EC) No 708/2007 (O.J. No. L.168, 28.6.2007, p.1), as last amended by Regulation (EU) No. 304/2011 of the European Parliament and of the Council (O.J. No.L.88, 4.4.2011, P.1) concerning use of alien and locally absent species in aquaculture.

Part 2 of the Regulations deals with permits (regulation 5), environmental risk assessments (regulation 9), contingency plans (regulation 10) and monitoring (regulation 11). It also makes provision for the movement of species listed in Annex IV to Council Regulation 708/2007 and the translocation of locally absent species within Northern Ireland or to Northern Ireland from another part of the United Kingdom to be restricted (regulations 6 to 8).

Part 3 gives enforcement powers to inspectors and makes provision for appeals. A person found guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to an unlimited fine (regulation 23).

Part 4 deals with miscellaneous provisions including consequential amendments to the Molluscan Shellfish (Control of Deposit) Order (Northern Ireland) 1972 and the Prohibition of Introduction of Fish Order (Northern Ireland) 1979.

A Regulatory Impact Assessment in relation to the Regulations has been placed in the library of the Northern Ireland Assembly. It is available on the DARD website at www.dardni.gov.uk/index/publications/pubs-dard-fisheries-farming-and-food/alien-and-locally-absent-species-ria.htm.

Changes to legislation:

There are currently no known outstanding effects for the The Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012.