Status: *This version of this Rule contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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.

PROSPECTIVE

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 or to Northern Ireland from another part of the United Kingdom 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.

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 or to Northern Ireland from another part of the United Kingdom.

(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).

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

(7) S.R. 2009 No. 129, as amended by S.R. 2011 No. 118

(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

I7 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

I8 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

I9 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.