

**2015 No. 88 (W. 7)**

**RIVER, WALES**

**SALMON AND FRESHWATER  
FISHERIES**

**The Prohibition of Keeping or  
Release of Live Fish (Specified  
Species) (Wales) Order 2015**

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

Article 3(1) prohibits the keeping or release in Wales, without a licence issued under the Import of Live Fish (England and Wales) Act 1980 (“the Act”), of any species of live non-native freshwater fish, or the live eggs of any such fish, belonging to the taxonomic orders listed in the table in Part 1 of the Schedule.

This Order does not apply where a person holds a permit for the introduction of those fish under Council Regulation (EC) No. 708/2007 concerning use of alien and locally absent species in aquaculture or has been served with a notice permitting movement in relation to those fish under the Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011 (S.I. 2011/2292) (article 1(4)). This Order also does not apply to the keeping or release of live fish in inland waters (article 1(5)). The prohibition in article 3(1) does not apply in relation to fish listed in the table in Part 2 of the Schedule (article 3(2)).

It is an offence under section 3 of the Act for any person to keep or release any of the species of fish listed in Part 1 of the Schedule to this Order without a valid licence. Section 3 also makes it an offence to contravene the terms of a licence. A person who breaches the offences in section 3 is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Article 4 of this Order revokes the Prohibition of Keeping or Release of Live Fish (Specified Species) Order 1998 (S.I. 1998/2409) (“the 1998 Order”) in relation to Wales. It also revokes the Prohibition of

Keeping or Release of Live Fish (Specified Species) (Amendment) (Wales) Order 2003 (S.I. 2003/416 (W.60)) and regulation 29 of the Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011 (S.I. 2011/2292) (“the 2011 Regulations”), both of which made amendments to the 1998 Order. The 1998 Order, the Prohibition of Keeping or Release of Live Fish (Specified Species) (Amendment) (England) Order 2003 (S.I. 2003/25) and regulation 29 of the 2011 Regulations were revoked in relation to England by the Prohibition of Keeping or Release of Live Fish (Specified Species) (England) Order 2014 (S.I. 2014/143).

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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FISHERIES**

**The Prohibition of Keeping or  
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Species) (Wales) Order 2015**

*Made* 28 January 2015

*Laid before the National Assembly  
for Wales* 2 February 2015

*Coming into force* 27 February 2015

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to measures relating to the common agricultural policy of the European Union<sup>(2)</sup>.

The Welsh Ministers have, in accordance with section 1(2) of the Import of Live Fish (England and Wales) Act 1980<sup>(3)</sup> (“the Act”) (“*y Ddeddf*”) consulted the Natural Resources Body for Wales and Natural England and such other persons as the Welsh Ministers consider appropriate, and are of the opinion that the species of live fish, or the live eggs of fish, to which this Order applies might compete with, displace, prey on or harm the habitat of any freshwater fish, shellfish or salmon in England and Wales.

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- (1) 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).
- (2) S.I. 2010/2690.
- (3) 1980 c. 27; section 1 was amended by section 132 of, and paragraph 8 of Schedule 9 to, the Environmental Protection Act 1990 (c. 43), section 105(1) of, and paragraph 62 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16), section 37(2) of the Fisheries Act 1981 (c. 29), regulation 45 of and paragraph 5 of Schedule 2 to S.I. 2009/463, and article 4(1) of and paragraph 158 of Part 1 of Schedule 2 to S.I. 2013/755 (W.90).

The Welsh Ministers make the following Order in exercise of the powers conferred by section 1(1) of the Act, now exercisable by them<sup>(1)</sup>, and section 2(2) of the European Communities Act 1972.

### **Title, commencement and application**

**1.**—(1) The title of this Order is the Prohibition of Keeping or Release of Live Fish (Specified Species) (Wales) Order 2015 and it comes into force on 27 February 2015.

(2) Subject to paragraph (3), this Order applies in relation to Wales.

(3) Article 4(c) applies in relation to Wales and “Wales” (“*Cymru*”), for the purposes of this paragraph only, has the same meaning as it has by virtue of section 158(1) of the Government of Wales Act 2006<sup>(2)</sup>.

(4) This Order does not apply in relation to the introduction of any live fish by a person who has been —

- (a) issued with a permit under Council Regulation (EC) No. 708/2007<sup>(3)</sup> concerning use of alien and locally absent species in aquaculture, or
- (b) served with a notice under regulation 7(2)(b) or (3)(b) (notices permitting movement) of the Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011<sup>(4)</sup>.

(5) This Order does not apply to the keeping or release of live fish in inland waters.

### **Interpretation**

**2.** In this Order—

“freshwater fish” (“*pysgod dŵr croyw*”) means any fish living in, or able to live in, fresh water; and

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- (1) By virtue of article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), functions exercisable in relation to Wales under section 1 of the Act were transferred to the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c.38)) concurrently with any Minister of the Crown by whom they are exercisable. Those functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).
  - (2) 2006 c.32. There are amendments to section 158 which are not relevant to this Order.
  - (3) O.J. No L 168, 28.06.07, p.1 as last amended by Regulation (EU) No 304/2011, O.J. No L 88, 4.4.2011, p. 1.
  - (4) S.I. 2011/2292.

“inland waters” (“*dyfroedd mewndirol*”) has the same meaning as in section 221 of the Water Resources Act 1991<sup>(1)</sup> except that it does not include garden ponds less than 0.4 hectares in area, which are not fished, have no links to other waters and are located within the curtilage of a residential property.

### **Prohibition of keeping or release of specified fish or eggs**

**3.**—(1) No person may, except under the authority of a licence granted by the Welsh Ministers, keep or release any live freshwater fish, or the live eggs of any freshwater fish, which—

- (a) belongs to a taxonomic order specified in the first column of the table in Part 1 of the Schedule; and
- (b) is not native to England and Wales.

(2) The requirement for a licence in paragraph (1) does not apply in relation to any species of non-native fish that is specified in the third column of the table in Part 2 of the Schedule and belongs to a taxonomic order referred to in paragraph (1).

### **Revocations**

**4.** The following are revoked—

- (a) Prohibition of Keeping or Release of Live Fish (Specified Species) Order 1998<sup>(2)</sup>;
- (b) Prohibition of Keeping or Release of Live Fish (Specified Species) (Amendment) (Wales) Order 2003<sup>(3)</sup>; and
- (c) regulation 29 of the Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011<sup>(4)</sup>.

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(1) 1991 c.57. There are amendments to section 221 which are not relevant to this Order.

(2) S.I. 1998/2409; amended by article 2 of S.I. 2003/25, article 2 of S.I. 2003/416 and regulation 29 of S.I. 2011/2292. S.I. 1998/2409 has been revoked in relation to England by article 4(a) of S.I. 2014/143.

(3) S.I. 2003/416 (W.60).

(4) S.I. 2011/2292. Regulation 29 of S.I. 2011/2292 has been revoked in relation to England by article 4(c) of S.I. 2014/143.

*Carl Sargeant*

Minister for Natural Resources, one of the Welsh  
Ministers

28 January 2015

# SCHEDULE

Article 3

## List of Fish

### PART 1

Taxonomic orders to which any species of freshwater fish that is not native to England and Wales belongs that may not be kept or released without a licence

<i>Taxonomic Order</i>	<i>Common name</i>
Acipenseriformes	Sturgeons, Paddlefish
Amiiformes	Bowfin
Anguilliformes	Eels
Atheriniformes	Silversides
Batrachoidiformes	Toadfish
Beloniformes	Needlefish, Flyingfish
Ceratodontiformes	Lungfish
Characiformes	Tetras, Characins, Headstanders
Clupeiformes	Herrings, Anchovies, Shads
Cypriniformes	Carps, Loaches, Minnows
Cyprinodontiformes	Killifish, Pupfish
Esociformes	Pike
Gasterosteiformes	Sticklebacks
Gonorynchiformes	Shellears
Gymnotiformes	Knifefish
Lepidosyreniformes	South American and African Lungfish
Lepisosteiformes	Gar or Garpike
Myliobatiformes	Stingrays
Osmeriformes	Smelt, Noodlefish
Osteoglossiformes	Arapaima, Bonytongues
Perciformes	Perches, Butterflyfish, Cichlids, Tunas
Percopsiformes	Trout-Perch, Cavefish
Petromyzontiformes	Lampreys
Pleuronectiformes	Flounders and Sole
Polypteriformes	Bichirs
Salmoniformes	Salmon, Trout, Whitefish
Scorpaeniformes	Scorpionfish, Sculpins
Siluriformes	Catfish
Synbranchiformes	Spiny Eels
Syngnathiformes	Pipefish, Seahorses
Tetraodontiformes	Pufferfish

## PART 2

Species of fish that are not native to England and Wales that may be kept or released without a licence

<i>Taxonomic Order</i>	<i>Common name</i>	<i>Species name</i>
Cypriniformes	Common carp and its variants	<i>Cyprinus carpio</i>
	Goldfish and its variants	<i>Carassius auratus</i>
	Ide or Orfe	<i>Leuciscus idus</i>
Salmoniformes	Rainbow Trout other than Anadromous Steelhead	<i>Oncorhynchus mykiss</i> other than Anadromous Steelhead