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## **The Alien and Locally Absent Species in Aquaculture (England Wales) Regulations 2011**

**Department for Environment, Food and Rural Affairs**

**RPC rating: fit for purpose**

### **Description of proposal**

The regulations implement Council Regulation 708/2007 on the use of alien and locally absent species in aquaculture. The regulations were not expected to have a significant impact on the UK's established aquaculture production businesses. Most of the existing businesses that produced non-native species dealt in certain commonly-farmed salmonids, shellfish and molluscs that were already well established in trade. These species were exempt from the regulations, with no requirement for retrospective applications. However, the regulations required those businesses which wish to deal with new species to complete an application form and risk assessment. The PIR documents a five-year statutory review of the 2011 regulations.

### **Impacts of proposal**

Given the low expected impact, the Department has undertaken a 'light touch' PIR, with information gathered through stakeholder surveys and discussion with the implementation body, the Fish Health Inspectorate. The Department also contacted other member states about their implementation of Council Regulation 708/2007. The Department has revisited the original impact assessment using the results of the PIR.

The key finding of the PIR was that costs have turned out to be much lower than expected in the original impact assessment. The IA estimated an annual cost to business of £129,600, driven almost entirely by the cost of an assumed level of one application for non-routine movement of alien species each year. However, there have been no such applications. Costs to business have, therefore, arisen in relation to only routine movement applications or non-routine movement enquiries, amounting to a total annual cost of under £1,000. Costs to government have also been significantly lower, at £10,000 compared to the £23,000 estimated in the original IA. This is due to lower than expected demand for introducing alien species and increased efficiency.

The PIR considered whether the regulations might have deterred applications for non-routine movement. There were ten enquiries for non-routine movement; the Department approached the two enquirers for which they had contact details. Only one enquirer responded, saying that they had been unable to raise funds for the proposal and subsequently developed another business. The original IA assumed that there would be 20 enquiries for each application. Given that the actual number of enquiries has been so low, the fact that there were no applications is not altogether surprising. The Department acknowledges that the benefits of the regulations were likely to be lower than expected due to the lower interest from the aquaculture sector in introducing alien species.

The Department has identified a lesson to be learned from this. It recommends that future impact assessments attempt to gather more intelligence from business regarding their future intentions before making assumptions.

The PIR includes a section on small and micro businesses. This acknowledges that the regulations are likely to affect almost exclusively small and micro businesses. As a consequence, it states that providing an exemption would mean that the regulations could not achieve their objectives and would risk infraction penalties for being in breach of Council Regulation 708/2007.

Although the regulations may have had some deterrent effect on applications for non-routine movement, there is no evidence that deterrence explains the lack of applications and thus the fact that the PIR found the impact of the regulations to be significantly lower than expected. Nevertheless, the Department recommends renewing the regulations on the basis that they form part of a proportionate overall system.

## **Quality of submission**

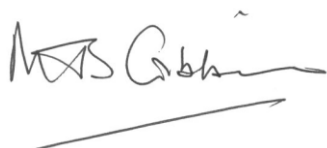
The Department has provided a proportionate assessment. The identification of lessons learnt and the examination of whether the regulations might be having a significant deterrent effect are particularly useful. The PIR would benefit from further examination of the deterrence, particularly since one of the respondents to the stakeholder survey believed that the regulations might be deterring those considering the profitable aquaculture of certain non-native species (paragraph 3.6 17, page 31).

The PIR would benefit from providing further clarity on the scope for amending the regulations, given the underlying EU requirements (and what the PIR says in the small and micro businesses section – see above). Depending upon the extent of UK discretion in this area, if the regulations continue to have relatively little discernible impact the Department may need to provide stronger evidence to justify renewal at the next statutory review in 2021.

Departmental recommendation	Renew
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**RPC assessment**

Is the evidence in the PIR sufficiently robust to support the departmental recommendation?	Yes
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**Michael Gibbons CBE**, Chairman