

2014 No. 143

RIVER, ENGLAND

SALMON AND FRESHWATER FISHERIES

The Prohibition of Keeping or Release of Live Fish (Specified Species) (England) Order 2014

<i>Made</i> - - - -	<i>23rd January 2014</i>
<i>Laid before Parliament</i>	<i>27th January 2014</i>
<i>Coming into force</i> - -	<i>17th February 2014</i>

The Secretary of State has, in accordance with section 1(2) of the Import of Live Fish (England and Wales) Act 1980(a) consulted Natural England and the Natural Resources Body for Wales and such other persons as the Secretary of State considers appropriate, and is of the opinion that the species of live fish to which this Order applies might compete with, displace, prey on or harm the habitat of certain species of freshwater fish, shellfish or salmon in England and Wales.

The Secretary of State makes the following Order in exercise of the powers conferred by section 1(1) of that Act, now exercisable by him(b).

Title, commencement and application

1.—(1) This Order—

- (a) may be cited as the Prohibition of Keeping or Release of Live Fish (Specified Species) (England) Order 2014;
- (b) comes into force on 17th February 2014; and
- (c) applies in relation to England.

(2) 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(c) concerning use of alien and locally absent species in aquaculture, or

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

(b) The functions of the Minister of Agriculture, Fisheries and Food were transferred to the Secretary of State by article 2(2) of S.I. 2002/794.

(c) 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.

- (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(a).

Prohibition of keeping or release of specified fish or eggs

2.—(1) No person may keep or release any live fish, or the live eggs of any fish, which is not native to England and Wales and belongs to a taxonomic order specified in the first column of the table in Part 1 of the Schedule, except under the authority of a licence granted by the Secretary of State.

(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).

Review

3.—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulation 2;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory scheme established by regulation 2;
- (b) assess the extent to which those objective are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Revocations

4. The following are revoked—

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

23rd January 2014

George Eustice
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) S.I. 2011/2292.
(b) S.I. 1998/2409; amended by S.I. 2003/25 and 2292.
(c) S.I. 2003/25.
(d) S.I. 2011/2292.

SCHEDULE

Article 2

List of Fish

PART 1

Taxonomic orders to which any species of 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	Australian Lungfish
Characiformes	Tetras, Characins, Headstanders
Clupeiformes	Herrings, Anchovies, Shads
Cypriniformes	Carps, Loaches, Minnows
Cyprinodontiformes	Killifish, Pupfish
Esociformes	Pike
Gasterosteiformes	Sticklebacks, Seahorses
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	Perch, Cavefish
Petromyzontiformes	Lampreys
Pleuronectiformes	Flounders and Sole
Polypteriformes	Birchirs
Salmoniformes	Salmons
Scorpaeniformes	Scorpionfish, Sculpins
Siluriformes	Catfish
Synbranchiformes	Spiny eels
Syngnathiformes	Pipefish
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

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2(1) prohibits the keeping or release in England, without a licence issued under the Import of Live Fish (England and Wales) Act 1980 (“the Act”), of any species of live non-native fish belonging to the taxonomic orders listed in the table in Part 1 of the Schedule.

These Regulations do 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(2)). The prohibition in article 2(1) does not apply in relation to fish listed in the table in Part 2 of the Schedule (article 2(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.

The effect of the revocations made by regulation 4 is that the Prohibition of Keeping or Release of Live Fish (Specified Species) Order 1998, and regulation 29 of the Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011, will continue to apply in Wales.

Regulation 3 requires the Secretary of State to review the operation and effect of regulation 2 and publish a report within 5 years of the coming into force of this Order and within every five years of that. A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available on the Defra website at www.gov.uk and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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