

2014 No. 3342

RIVER, ENGLAND

SALMON AND FRESHWATER FISHERIES

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

<i>Made</i> - - - -	<i>14th December 2014</i>
<i>Laid before Parliament</i>	<i>19th December 2014</i>
<i>Coming into force</i> - -	<i>19th January 2015</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(b).

Title and commencement

1.—(1) This Order—

- (a) may be cited as the Prohibition of Keeping or Release of Live Fish (Specified Species) (England) (Amendment) Order 2014; and
- (b) comes into force on 19th January 2015.

Amendment

2.—(1) The Prohibition of Keeping or Release of Live Fish (Specified Species) (England) Order 2014(c) is amended as follows.

(2) After article 1(2), insert—

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

(3) After article 1, insert—

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- (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) S.I. 2014/143.

“Interpretation

1A. In this Order—

“freshwater fish” means any fish living in, or able to live in, fresh water;

“inland waters” means any water of a kind specified in section 221 of the Water Resources Act 1991(a) except that it does not include—

- (a) the River Tweed, or
- (b) 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”.

(4) For article 2(1), substitute—

“(1) No person may, except under the authority of a licence granted by the Secretary of State, 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”.

(5) For Part 1 of the Schedule, substitute the table and the heading that appears in the Schedule to this Order.

George Eustice

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

14th December 2014

SCHEDULE

Article 2(5)

“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	Carp, Loaches, Minnows
Cyprinodontiformes	Killifish, Pupfish
Esociformes	Pike
Gasterosteiformes	Sticklebacks
Gonorynchiformes	Shell-eaters

(a) 1991 c. 57. The definition of “inland waters” in section 221 of the Water Resources Act 1991 includes a “watercourse”, the definition of which was amended by paragraph 128 of Schedule 22 to the Environment Act 1925 (c. 25) and S.I. 2013/755.

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”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Prohibition of Keeping or Release of Live Fish (Specified Species) (England) Order 2014 (“the principal Order”) by limiting the application of that Order in two ways. Firstly, the effect of the amendment made by article 2(2) is that the principal Order no longer applies to the keeping or release of fish in “inland waters”. The waters to which the principal Order still applies include water such as certain garden ponds, aquariums and some fish farms. Secondly, the effect of the amendment made by article 2(4) is that the requirement to obtain a licence only applies in relation to freshwater fish. This excludes the marine species belonging to the taxonomic orders listed in the Schedule from the application of the Order.

Article 2(5) of this Order replaces the table in Part 1 of the Schedule to the principal Order. The new table makes technical corrections to the common names of certain fish that are listed in the second column.

The Explanatory Memorandum is available on the Defra website at www.gov.uk and is published alongside the instrument on www.legislation.gov.uk.

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