

Fisheries & Environment Division
Aquaculture & Fish Health Unit

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20 December 2011

Dear Consultee

CONSULTATION ON THE ALIEN AND LOCALLY ABSENT SPECIES IN AQUACULTURE REGULATIONS (NORTHERN IRELAND) 2012

I am writing to inform you of a consultation on the above draft Regulations which will implement in Northern Ireland the requirements of Council Regulation (EC) No 708/2007, as amended, concerning use of alien and locally absent species in aquaculture (Annex A).

Background

This is not a consultation on Council Regulation 708/2007 itself, but on the proposals for implementing the Regulation in Northern Ireland through the Use of Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012. Most of the provisions of the Council Regulation are obligatory and Member States must therefore adopt them. However there are some measures in respect of which individual governments can determine how they are to be implemented within the framework of the Regulation and it is on these measures that the Department is consulting, as part of the process of determining its final policy.

The aim of Council Regulation (EC) No 708/2007 is to ensure that there is adequate protection of aquatic habitats from the risks associated with the use of alien and locally absent species in aquaculture whilst contributing to the sustainable development of the aquaculture industry. It does this by providing for a system of permits and environmental risk assessment where necessary.

Council Regulation (EC) 708/2007 exempts certain commonly used species, which are listed in Annex IV to the Regulation (Annex IV species) from the permitting requirements of the Regulation. However, Member States are able to place controls on the use of these species where they so wish. Similarly, the translocation of locally absent species within Member States is exempt from the Regulation except where Member States can foresee environmental threats due to translocation.

These Regulations make provision for the enforcement of Council Regulation (EC) No 708/2007 and for the notification of both an intended movement of an Annex IV species and the translocation of a locally absent species within Northern Ireland and from within the United Kingdom. The movement of an Annex IV species can be prohibited or allowed subject to certain conditions by means of a notice where such measures are deemed necessary. Persons will be advised by means of a notice if the risk of threats to the environment is considered such that the Council Regulation (EC) No 708/2007 should apply to the translocation.

The Regulations allow for decisions concerning the grant of permits, Annex IV species or locally absent species to be appealed.

The Regulations shall not apply to:

- (a) those species listed in Annex IV of the Regulation with the exception of Articles 3 and 4(1) and 4(2)(a);
- (b) the keeping or ornamental aquatic animals or plants in pet-shops, garden centres, contained garden ponds or aquaria which comply with the provisions of Commission Decision 2006/656/EC laying down the animal health conditions and certification requirements for imports of fish for ornamental purposes;

- (c) the translocation of locally absent species within Northern Ireland or the UK except for cases where, on the basis of scientific advice, there are grounds for foreseeing environmental threats due to translocation; and
- (d) the movement of alien or locally absent species to be held in closed aquaculture facilities provided that the transport is carried out under conditions that prevent the escape of those species and of the non-target species.

Regulatory Impact Assessment

A copy of the draft Partial Regulatory Impact Assessment (RIA) on the introduction of the proposed Regulations is attached at Annex B. We would welcome any comments you may wish to make on this.

Equality Impact

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity;

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The proposed Regulations have been subject to screening in terms of Equality and Human Rights and it has been concluded that the proposed measures will not have any adverse differential impact on any of the groups listed above. We would however welcome any comments you may wish to make on the equality aspect of the consultation and the screening form is part of the consultation package.

Your views

We are seeking views from the public and stakeholders on our proposed approach as outlined in the consultation document (Annex A). Views on the partial RIA, its underlying assumptions and their applicability would also be welcomed.

Please note that this consultation period will run for a 12-week period from 20 December. Responses should be received by 13 March 2012.

If you wish to take part in the consultation you can respond by using one of the following methods:

By writing to: Debbie Boyd
Fisheries and Environment Division
Department of Agriculture and Rural Development
Room 420
Dundonald House
456 Upper Newtownards Road
BELFAST
BT4 3 SB

By faxing: (028) 9037 8323

By e-mailing: debbie.boyd@dardni.gov.uk

Transparency

In line with our policy of openness, at the end of the consultation period copies of the responses received may be made publically available. The information they contain may also be published in a summary of responses.

If you do not consent to this, you must clearly request in writing that your response be treated confidentially (see attached responsee information form at Appendix A). Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. You should be aware that there may be circumstances in which we will be required to communicate information to third parties on request, in order to comply with our obligations

under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

For further information about confidentiality of responses please contact the Information Commissioner's Office, or visit their website at www.ico.gov.uk

Yours faithfully

A handwritten signature in black ink, appearing to read 'K Parker', written in a cursive style.

K PARKER
Aquaculture Policy
Fisheries and Environment Division

List of consultees

Licensed aquaculture producers

Loughs Agency, FCILC

Ulster Wildlife Trust

UFU Fish Farming Committee

Food Standards Agency

Northern Ireland Environment Agency (Natural Heritage Directorate)

Northern Ireland Environment Agency (Water Management Unit)

Department of the Environment

Royal Society for the Protection of Birds

Northern Ireland Agricultural Producers Association

Northern Ireland Water

Cross Border Aquaculture Initiative (EEIG)

Strangford Lough and Lecale Partnership

CMAR, Queens University

National Trust

Agri-Food and Biosciences Institute

Seafish

Department of Agriculture, Fisheries and the Marine

Bord Iscaigh Mhara

Defra

Scottish Government

Welsh Assembly

Council for Nature Conservation and the Countryside

Northern Ireland Environment Link

Friends of the Earth (Northern Ireland)

Northern Ireland Marine Task Force

District Councils

Department of Regional Development

Larne Lough Shellfish Association

Belfast Lough Clams Group

Carlingford Lough CLAMS Group

Larne Lough CLAMS Group

RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name:

Postal Address:

Consultation title: **Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2011**

RESPONDING:

Are you responding as: (please tick one box)

(a) an individual

(b) on behalf of a group or organisation

a) INDIVIDUAL:

Do you agree to your response being made available to the public?

No

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

b) ON BEHALF OF A GROUP OR ORGANISATION

Your name and address as respondees **will be** made available to the public. Are you content for your response to be made available also?

Yes

No

**CONSULTATION ON THE IMPLEMENTATION IN NORTHERN IRELAND OF COUNCIL
REGULATION (EC) NO 708/2007, AS AMENDED, CONCERNING USE OF ALIEN AND
LOCALLY ABSENT SPECIES IN AQUACULTURE**

Department of Agriculture and Rural Development

Fisheries and Environment Division

**Copies of the consultation document can also be made available, on request, in
alternative formats e.g. in large print, Braille, audio CD, computer disc and other
languages. To get a copy of this consultation in another format, please contact Debbie
Boyd on 028 9052 4368 or e-mail debbie.boyd@dardni.gov.uk or, for those with hearing
difficulties, leave a message on the Department's text phone (028 9052 4420)**

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Annexes

A – Draft Statutory Rule implementing Council Regulation (EC) No 708/2007, as last amended by Regulation (EU) No 304/2011 of the European Parliament and of the Council

B – Draft Partial Regulatory Impact Assessment

C – Freedom of Information Act 2000 – Confidentiality of consultations

D – An Equality and Human Rights Screening Template

INTRODUCTION

1. The purpose of this consultation document is to seek the views of stakeholders on proposals to implement Council Regulation (EC) No 708/2007 (“the Regulation”), as last amended by Regulation (EU) No 304/2011 of the European Parliament and of the Council, concerning use of alien and locally absent species in aquaculture and Commission Regulation (EC) No 535/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 708/2007.
2. Comments on the consultation document are sought by 13 March 2012. This is not a consultation on the Regulation itself, but on the proposals for implementing the Regulation in Northern Ireland. Most of the provisions of the Regulation are obligatory and Member States must therefore adopt them. However there are other measures in respect of which individual Member States can determine how they are to be implemented within the framework of the Regulation and it is on these measures (which will also appear in the implementing Statutory Rule) that the Department is consulting. A copy of the draft Statutory Rule which contains both the obligatory measures and DARD’s proposals for non-obligatory measures is attached at Appendix A. A copy of the Council Regulation and relevant amendments can be obtained on the EU website at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:168:0001:0017:EN:PDF>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:149:0036:0037:EN:PDF>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0001:0004:EN:PDF>

3. This consultation document sets out the main principles of the Regulation, which applies from 1 January 2009, together with the proposals being considered in relation to implementation of the Regulation in Northern Ireland.
4. The Department and its legal advisors have consulted with other UK administrations in developing the policy with the aim of establishing a common approach and to ensure

that the Regulation is implemented fully and consistently throughout the UK. In view of the fact that the Loughs Agency of the Foyle, Carlingford and Irish Lights Commission will, on commencement of the necessary provisions of the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (and parallel Southern legislation), assume statutory responsibility for the licensing and development of aquaculture in the Foyle and Carlingford Areas, the Department is also consulting with the relevant administrations in the South.

5. Given that the Regulation came into effect on 1 January 2009, subordinate legislation to implement the Regulation in Northern Ireland is required as soon as possible.
6. The costs and benefits of the proposed Regulation are addressed in the Partial Regulatory Impact Assessment that forms part of the consultation document (Annex B).

PURPOSE

7. This paper invites you to:
 - Note the provisions of the Regulation which are obligatory;
 - Comment on our interpretation of the provisions and on the proposals for implementing the Regulation in Northern Ireland. In particular you may wish to comment on:
 - i. The proposals for decision making and advisory bodies;
 - ii. Environmental Risk Assessments;
 - iii. Review of applications and risk assessments by ICES;
 - iv. Contingency Plans;
 - v. the costs and benefits to aquaculture businesses as set out in the draft Partial Regulatory Impact Assessment.
- and
- vi. the draft Statutory Rule implementing the Council Regulation.

BACKGROUND

8. The Regulation shall apply to the introduction of alien species and the translocation of locally absent species for use in aquaculture in the European Community. It places an obligation on Member States to ensure that all appropriate measures are taken to avoid adverse effects to biodiversity, and especially to species, habitats and ecosystem functions, which may be expected to arise from the introduction or translocation of aquatic organisms and non-target species in aquaculture and from the spreading of these species into the wild. To this end, the Regulation provides for a system of permits governing the use of alien and locally absent species in aquaculture to minimise the possible impact of these and any associated non-target species on aquatic habitats and thus contribute to the sustainable development of the sector. The intention is that such permits will be granted only if the risk associated with the activities proposed by the applicants can be considered low, or if the risk can be reduced to a low level by mitigating action on the part of the applicant.

9. The Regulation shall not apply to:-
 - (a) those species listed in Annex IV of the Regulation with the exception of Articles 3 and 4(1) and 4(2)(a);
 - (b) the keeping of ornamental aquatic animals or plants in pet-shops, garden centres, contained garden ponds or aquaria which comply with the provisions of Commission Decision 2006/656/EC laying down the animal health conditions and certification requirements for imports of fish for ornamental purpose;
 - (c) the translocation of locally absent species within Member States, except for cases where, on the basis of scientific advice, there are grounds for foreseeing environmental threats due to the translocation;
 - (d) the movement of alien or locally absent species to be held in closed aquaculture facilities provided that the transport is carried out under conditions that prevent the escape of those species and of the non-target species.

10. Aquaculture in Northern Ireland has benefited economically from the introduction of alien species and translocation of locally absent species in the past e.g. rainbow trout, Arctic char, Pacific oysters and the EU policy objective for the future is to optimise benefits

associated with introductions and translocations while at the same time avoiding alterations to ecosystems, preventing negative biological interaction, including genetic change, with indigenous populations and restricting the spread of non-target species and detrimental impacts on natural habitats.

11. The measures provided for in Regulation 708/2007, which cover all aquaculture businesses licensed by the Department under the provisions of the Fisheries Act (Northern Ireland) 1966 and authorised as Aquaculture Production Businesses under the provisions of the Aquatic Animal Health Regulations (Northern Ireland) 2009, establish a framework to ensure adequate protection of aquatic habitats from the risks associated with the use of non-native species in aquaculture. This framework includes procedures for the analysis of the potential risks, the taking of measures based on the prevention and the precautionary principles and the adoption of contingency plans where necessary.
12. Some alien species have commonly been used in aquaculture for a long time in certain parts of the Community and the Commission has no desire to place an additional administrative burden on producers cultivating these species. This is recognised by the Regulation in Article 2.5 and Annex IV, which provide an exemption for a number of these species, some of which are cultivated in Northern Ireland e.g. Pacific oysters, rainbow trout and Arctic char.
13. There are currently 82 licensed fish and shellfish farms (covering 95 sites) in Northern Ireland of which 50 are shellfish farms and 32 finfish farms. In 2010 the aquaculture sector produced over 11,000 tonnes of shellfish valued at £6.2m and 1156 tonnes of finfish valued at £4.6m. In total the aquaculture sector directly employs 100 full time and 53 part time people. The main species cultivated are mussels, Pacific oysters, rainbow trout and Atlantic salmon.

MAIN FEATURES OF THE REGULATION

14. The main features of the Council Regulation are:-

- a) The designation of a competent authority to ensure compliance with the requirements of the Regulation and the option of appointing an advisory committee to assist it (Article 5);
- b) The requirement for aquaculture operators intending to undertake the introduction of an alien species or the translocation of a locally absent species, not exempted under Article 2.5 and Annex IV of the Regulation, to apply for a permit from the competent authority and, if necessary, to submit relevant supporting documentation as detailed in Annex 1 of the Regulation (Article 6).
- c) The introduction of a permitting system for routine and non-routine movements of aquatic organisms, including;
 - (i) Procedures to deal with multiple applications to take place over a period of not longer than seven years (Article 6(1));
 - (ii) The requirement to undertake an environmental risk assessment in the case of non-routine movements (Article 9(1));
 - (iii) The option of having applications and risk assessments regarding marine organisms reviewed by ICES prior to issuing an opinion (Article 10(2));
 - (iv) The requirement to notify other Member State or States and the Commission of the intention to grant a permit where the environmental effects of a proposed movement of an organism are liable to affect another Member State or States (Article 11(1)). The Commission shall confirm, reject or amend the proposed decision to grant a permit within 6 months of notification (Article 11(3)).
 - (v) The option at any point in time of withdrawing a permit, either temporarily or permanently, if unforeseen events with negative effects on the environment or on native populations occur (Article 12).
- d) Regulating the release of routine (Article 14) and non-routine (Article 15) introductions of aquatic organisms into open aquaculture facilities once a permit has been granted, including;

- (i) Ensuring compliance with other Community legislation e.g. the Aquatic Animals Health Directive or the Plant Health Directive (Article 13);
 - (ii) The requirement, if necessary, to place a non-routine movement into a designated quarantine facility (Article 15(2));
 - (iii) The option of requiring a pilot release into an open aquaculture facility subject to specific containment and preventative measures (Article 16);
 - (iv) The requirement for the applicant to draw up a contingency plan for the approval of the competent authority for all non-routine introductions and pilot releases (Article 17); and
 - (v) The requirement to undertake monitoring following the release of alien species into an open aquaculture facility (Article 18);
- e) Regulating the translocation of locally absent species once a permit has been granted (Article 20), including;
- (i) Ensuring compliance with other Community legislation e.g. the Aquatic Animals Health Directive and Plant Health Directive (Article 19);
 - (ii) In the case of non-routine translocations, the option of requiring a pilot release into an open aquaculture facility subject to specific containment and preventative measures (Article 16);
 - (iii) The option for the receiving Member State to require quarantine before release of species from non-routine translocations into open aquaculture facilities (Article 21); and
 - (iv) The requirement to undertake monitoring following a non-routine translocation (Article 22).

- f) The requirement for Member States to establish and keep up to date an information system containing details of all requests for permits to introduce an alien species or to translocate a locally absent species (Article 23). The information to be collected for each request for a permit and the format of such information is set out in the Annex to Commission Regulation (EC) No 535/2008. Member States are also required to make this information available on a website accessible via Internet.
- g) The procedures for adding additional species to the Annex IV list which exempts certain species from most of the provisions of the Council Regulation (Article 24).

DEFINITIONS

15. The Council Regulation defines:

“alien species” as “a species or subspecies of an aquatic organism occurring outside its known natural range and the area of its natural dispersal potential” or “polyploid organisms, and fertile artificially hybridised species irrespective of their natural range or dispersal potential”;

“aquatic organisms” as “any species living in water belonging to the animalia, plantae and protista kingdoms, including any part, gametes, seeds, eggs or propagules of their individuals that might survive and subsequently reproduce;

A *“closed aquaculture facility”* as “a land based facility

(a) where

- a. aquaculture is conducted in an aquatic medium, which involves recirculation of water; and
- b. Discharges do not connect in any way to open waters before screening and filtering or percolation and treatment to prevent the release of solid waste into the aquatic environment and the escape from the facility of farmed species and non-target species that might survive and subsequently reproduce;

(b) and which:

- (i) prevents losses of reared specimens or non-target species and other biological material, including pathogens, due to factors such as predators (e.g. birds) and flooding (e.g. the facility must be situated at a safe distance from open waters following a proper assessment made by the competent authorities);
- (ii) prevents, in a reasonable way, losses of reared specimens or non-target species and other biological material, including pathogens, due to theft and vandalism; and
- (iii) ensures appropriate disposal of dead organisms.

“*introduction*” means the process by which an alien species is intentionally moved to an environment outside its natural range for use in aquaculture;

“*locally absent species*” as “a species or subspecies of an aquatic organism which is locally absent from a zone within its natural range of distribution for bio-geographical reasons”;

“*non-routine movement*” as a movement of aquatic organisms which does not fulfil the criteria for routine movement.

“non-target species” as any species or subspecies of an aquatic organism likely to be detrimental to the aquatic environment that is moved accidentally together with an aquatic organism that is being introduced or translocated, not including disease-causing organisms which are covered by Directive 2006/88/EC;

An “*open aquaculture facility*” as “a facility where aquaculture is conducted in an aquatic medium not separated from the wild aquatic medium by barriers preventing the escape of reared specimens or biological material that might survive and subsequently reproduce”;

“*routine movement*” as a movement of aquatic organisms from a source which has a low risk of transferring non-target species and which, on account of the characteristics of the aquatic organisms and/or the method of aquaculture to be used, does not give rise to adverse ecological effects;

“*translocation*” means the process by which a locally absent species is intentionally moved within its natural range for its use in aquaculture to an area where it previously did not exist because of bio-geographical reasons.

Other definitions are set out in Article 3 of the Regulation.

PROPOSALS AND OPTIONS

16. The main proposals and options being considered in relation to the implementation of the Regulation are set out below.

Scope of the Regulation

17. Council Regulation 708/2007, as amended, applies to the introduction of alien species and the translocation of locally absent species for their use in aquaculture in the Community. Ornamental fish and plants are covered by the Regulation only insofar as they are reared, commercially farmed or propagated in the EU for onward sale. While there is a significant trade in non-native organisms, mainly fish species for ornamental use, they are normally kept in pet shops, garden centres and commercial and private aquaria and thus do not fall within the scope of the Regulation.
18. Under Article 2.2, the Regulation shall not apply to translocations of locally absent species within Northern Ireland or the UK, except for cases where, on the basis of scientific advice, there are grounds for foreseeing environmental threats due to translocation. To enable the Department to consider whether there are grounds for any environmental threats, regulation 6 of the draft Regulations includes a provision requiring a person to notify the Department of the proposed translocation of a locally absent species within Northern Ireland or to Northern Ireland from another part of the UK. .
19. Under Article 2.5, the Regulation, except for Articles 3 and 4(1) and (2)(a), shall not apply to the species listed in Annex IV. Furthermore Article 2.5 states that the requirement for an environmental risk assessment under Article 9 shall not apply to the species listed in Annex IV except in cases where Member States wish to take measures to restrict the use of the species concerned in their territory.

20. It is not the Department's intention to restrict the use of Annex IV species which have historically been cultivated in Northern Ireland. There are however several Annex IV species that the Department would wish to restrict the use of and to ensure that the Department is aware of a proposed movement of an Annex IV species and can assess the individual environmental risk associated with such a movement, regulation 6 of the draft Regulations includes a provision requiring a person to notify the Department of the proposed movement. The requirement to notify the Department does not apply to subsequent movements or translocations of the same species that is originally notified to the Department by the same person to the same aquaculture facility.
21. Any application of measures to Annex IV species will be no more onerous than those for movements of non-Annex IV species. Once the Department has been notified of a proposed movement it shall serve notice on the person proposing to undertake that movement either prohibiting the movement, permitting the movement, and any subsequent movements of the same species undertaken by that person to the same aquaculture facility, subject to any conditions specified in the notice or 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.
22. Under Article 2.6, movements of alien or locally absent species to be held in closed aquaculture facilities shall not be subject to prior environmental risk assessment except in cases where Member States wish to take appropriate measures. The Department proposes to retain the option of exercising this exception.
23. Furthermore, under Article 2.7, Chapters III to VI of the Regulation shall not apply to movements of alien or locally absent species to be held in closed aquaculture facilities, provided that the transport is carried out under conditions that prevent the escape of those species and of the non-target species. The Department shall adopt this as its policy in relation to movements of alien or locally absent species to be held in closed aquaculture facilities.

Consultation response 1: You are invited to note the scope of the Regulation and to comment on the Department's proposed policy in relation to Articles 2.5, 2.6 and 2.7.

Decision making and advisory bodies

24. The Regulation requires Member States to designate the competent authority or authorities responsible for ensuring compliance with the requirements of the Regulation. As the Department of Agriculture and Rural Development (DARD) is currently responsible for the licensing of aquaculture production businesses in Northern Ireland, it is proposed that DARD be designated the competent authority. However statutory responsibility for the licensing and development of aquaculture in the Foyle and Carlingford Areas will, on commencement of the necessary provisions of the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (and parallel Southern legislation) transfer to the Loughs Agency of the Foyle, Carlingford and Irish Lights Commission. The Department will therefore consult formally with the relevant Departments in the South and the Loughs Agency, particularly as to how the Regulation should be implemented in the Foyle and Carlingford Areas and whether there is scope to have the Loughs Agency designated as the competent authority in respect of the Foyle and Carlingford Areas.

Consultation response 2: Comments are sought on the proposal to have DARD designated as the competent authority for ensuring compliance with the requirements of the Regulation and the possibility of also having the Loughs Agency designated as the competent authority for the Foyle and Carlingford Areas.

25. The Regulation enables each competent authority to appoint an advisory committee to assist it, which shall include appropriate scientific expertise. The role of the advisory committee would be to advise the competent authorities, in particular on:-
- (i) assessing the risks associated with the translocations of locally absent species within Member States where, on the basis of scientific advice, there are grounds for foreseeing environmental threats due to the translocation (Article 2.2);
 - (ii) whether an application for a permit contains all the information required to assess whether the proposed movement is routine or non-routine and therefore admissible (Article 6(2));
 - (iii) whether a proposed movement is routine or non-routine (Article 7);

- (iv) whether a proposed release must be preceded by quarantine or a pilot release (Article 7);
 - (v) whether, on the basis of the environmental risk assessment, the risk associated with a non-routine movement is low (Article 9(2)); and
 - (vi) whether, in the case of medium or high risk non-routine movements, there are mitigation procedures or technologies available to reduce the level of risk to low (Article 9(3)).
26. The advisory committee shall also evaluate the results of any monitoring programme undertaken following the release of alien species into an open aquaculture facility and shall note in particular any event not correctly anticipated in the environmental risk assessment (Articles 18(3) and 22).
27. Article 5 of the Regulation states that if a Member State does not appoint an advisory committee then the competent authority or competent authorities shall assume the tasks assigned to the advisory committee under the Regulation.
28. In England and Wales, Defra's view is that the Non-Native Risk Assessment Panel which is part of the Non-Native Species Secretariat should act as the advisory committee. The Department's view is that an advisory committee should be established to advise the competent authority or authorities and that it should comprise representatives with appropriate scientific expertise from relevant government departments and agencies e.g. Department of the Environment, the Department of Culture, Arts and Leisure, the Northern Ireland Environment Agency, the Agri-Food and Biosciences Institute, the Loughs Agency and DARD. Where movements are liable to impact on Ireland due to the cross border nature of catchments such as Foyle and Carlingford, the advisory committee should also include representation from relevant government Departments and State agencies in the South.

Consultation response 3: Comments are sought on (i) whether or not an advisory committee should be established and (ii) if so, who should be represented on such a committee?

Environmental Risk Assessments (Regulation 9)

29. In the case of non-routine movements, an environmental risk assessment must be undertaken in accordance with a standard approach detailed in Annex II of the Regulation. The Regulation states that the competent authority shall decide whether the applicant or an independent body is responsible for conducting the environmental risk assessment and who shall bear the cost. Given that a certain level of knowledge and expertise would be required in order to complete an environmental risk assessment, the Department's view is that it may be appropriate in certain circumstances e.g. where the applicant does not have sufficient expertise, to require that an assessment be undertaken by an independent body. By introducing an alien species, operators are risking a potential negative effect and impact on the environment. It is therefore of extreme importance that those contemplating the use of an alien species in aquaculture take full account of the risks posed by their projected actions and bear the associated costs. Consequently, the burden of minimal risk and of risk mitigation would rest with the operators.

Consultation response 4: Comments are sought on (i) the option of allowing the competent authority to decide whether an independent body should undertake environmental risk assessments and (ii) on who should bear the costs.

Review by ICES (International Council for the Exploration of the Sea)

30. The Regulation allows Member States, which are signatories of ICES, to have applications and risk assessments regarding marine organisms reviewed by ICES prior to the issuing of an opinion of the advisory committee. In such cases an additional period of 6 months shall be allowed in which to make a decision to issue or refuse a permit. Whilst the UK is a signatory of ICES the Department view is that referring applications and risk assessments to ICES for consideration will not be necessary on the basis that if an advisory committee is established, it will have appropriate scientific expertise to make decisions on the tasks assigned to it in the Regulations. Defra have adopted a similar approach for England and Wales.

Consultation response 5: Comments are sought on whether or not applications and risk assessments for marine organisms should be referred to ICES prior to the issuing of an opinion by the advisory committee.

Contingency Plans (Regulation 10)

31. In the case of all non-routine and pilot releases, the Regulations require the applicant to draw up, at his own expense, a contingency plan, for approval by the competent authority, which shall include the removal of introduced species from the environment, or a reduction in density, for unforeseen events with negative effects on the environment or on native populations. If such an event occurs the contingency plan shall be implemented immediately. It is proposed that the competent authority be responsible for overseeing implementation of the contingency plan and that in view of the potential negative effect and impact on the environment posed by non-routine and pilot introductions it is proposed that any costs associated with its implementation should be borne by the person to whom the permit was granted.

Consultation response 6: Comments are sought on the proposal that any costs associated with the development or implementation of a contingency plan should be borne by the person to whom the permit was granted.

MANDATORY CONSULTATION REQUIREMENTS

Freedom of Information Act 2000

32. The Department of Agriculture and Rural Development's policy in respect of the confidentiality of consultation responses is outlined in Annex C.

Equality and Human Rights

33. An Equality and Human Rights Screening template has been completed (copy attached Annex D) and there is no evidence that the proposed Regulations will have any adverse differential impact on any of the section 75 equality categories or on human rights issues. The Department therefore considers that the completion of a full Equality Impact

Assessment is not necessary. The Department would however welcome comments on the screening template.

Regulatory Impact Assessment

34. A partial Regulatory Impact Assessment is attached at Annex B. The Department would welcome comments on this draft assessment, particularly in relation to the cost and benefits to aquaculture businesses.

ENQUIRIES AND FURTHER COPIES

35. For enquiries and further copies please contact the address below. The consultation document is also available on the DARD website at www.dardni.gov.uk.

Debbie Boyd
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Department of Agriculture and Rural Development
Room 420
Dundonald House
Upper Newtownards Road
BELFAST
BT4 3SB

By telephone: 028 9052 4368
By fax: 028 9037 8323
By e-mail: debbie.boyd@dardni.gov.uk

36. Copies of the consultation document can also be made available, on request, in alternative formats e.g. in large print, Braille disc, audio cassette and other languages. Please contact the address above or, for those with gearing difficulties, leave a message on the Department's text phone (028 9052 4420).

HOW TO RESPOND

37. Written response to the consultation document should be sent to the above address and should arrive no later than 13 March 2012. It will not be possible to consider responses received after this date.

PUBLICATION OF RESPONSES

38. The Department may wish to publish responses to the consultation document. It will certainly publish a summary of responses following completion of the consultation exercise. Your response, and all other responses to the consultation, may be disclosed on request. The Department is only able to refuse to disclose information in very particular circumstances. Therefore, you are advised to read the information at Annex C before sending a response to the consultation document. It provides guidance on the legal position of any information given by you. Should you require further information about the confidentiality of responses, please contact:

Information Commissioner's Office – Northern Ireland
Room 101
Regus House
33 Clarendon Dock
Laganside
Belfast
BT1 3BG

Telephone number: 028 9051 1270

Alternatively, your request can be sent electronically to ni@ico.gsi.gov.uk

Information can also be accessed on the internet at
http://www.ico.gov.uk/Global/contact_us.aspx